

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 20 March 2019**

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<b>APPLICATION REF. NO:</b>	17/01195/OUT
<b>STATUTORY DECISION DATE:</b>	6 <sup>th</sup> April 2018
<b>WARD/PARISH:</b>	SADBERGE AND MIDDLETON ST GEORGE
<b>LOCATION:</b>	Field at OSGR E435307 N513463 Yarm Road Middleton St George Darlington
<b>DESCRIPTION:</b>	Outline planning application for the erection of up to 330 residential dwellings with associated landscaping and engineering works, 3 retail units and provision of a new single form Primary School
<b>APPLICANT:</b>	ALBERT HILL PROPERTIES

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Members were minded to grant outline planning permission for this development at the meeting of the Planning Applications Committee on 23 January, subject to the satisfactory completion of the Section 106 agreement.

At the meeting, Members requested the provision of a bus pass for each dwelling, for a 2-3 year period. The bus pass referred to in the Planning Obligations section of this report relates to the usual 7-day 'taster ticket' which seeks to encourage occupiers to use more sustainable modes of transport. The full cost of the taster ticket for the entire development would be approximately £8,000.

The provision of a full bus pass for each dwelling for a 2 – 3 year period, as requested by Members, would be a cost to the developer of between £858,000 and £1,287,000. This would be in addition to the sustainable transport contribution that the developer has agreed to pay of £297,000, and the strategic network contribution of some £276,000 towards the Little Burdon and Morton Palms roundabouts.

As the Heads of Terms already includes a financial contribution of £297,000 towards sustainable transport, which will be used towards increasing the frequency of the existing Service 12 for five years, the provision of a bus pass for 2-3 years for each dwelling is considered to be 'double-counting' and would not meet the tests set out in the Community Infrastructure Levy Regulations 2010 and the policy tests in the National Planning Policy Framework that they must be: necessary to make the development acceptable in planning terms; and, directly related to the development; and fairly and

reasonably related in scale and kind to the development. The proposal put forward by Members at the Planning Applications Committee would mean that the developer would be bearing the cost of a) a contribution to increase the frequency of the existing bus service, and b) providing free travel for 330 residents for up to three years for that bus service. A bus pass beyond the 7-day taster ticket has not been requested for any other developments in the surrounding area. A planning obligation that does not meet the above tests, is ultra vires.

As this was agreed at the Planning Applications Committee, Officers are unable to vary the requirement put forward, without reporting back to members for their approval. This report seeks to resolve this issue and to invite members to agree that the developer should fund a 7-day taster ticket for each dwelling on occupation which the household would be invited to apply for within three years, meaning that a new occupier of a house on the site would have three years to claim a one week bus pass. The advantage of this is that residents can claim the bus pass once the improved service is up and running efficiently, rather than at the start when they would only have the benefit of using their taster ticket on the existing hourly service.

**The application remains the same as previously considered, in all other respects.**

## **APPLICATION AND SITE DESCRIPTION**

The application site, which extends to some 15ha in size, is situated to the south of Yarm Road beyond the railway embankment and to the east of Chapel Street. The site comprises a mixture of grassland and pasture and haulage yards comprising areas of hardstanding, warehouse units and an office building and is divided into two parcels of land by the highway (Middleton Back Road).

The site is bounded by the Tees Valley Railway line to the north, with Yarm Road beyond, agricultural fields to the east and south and existing residential properties to the west. The majority of the site is bounded by existing mature hedgerow. A public right of way (public Footpath No. 3) in the Parish of Middleton St George, runs north / south through the centre of the western section of the site. An unnamed watercourse crosses the site.

Planning permission is sought for the development of the site for up to 330 residential dwellings with associated landscaping and infrastructure, together with the provision of a new single form Primary School and retail units. The application is submitted in outline with all matters reserved except for access. Details of appearance, layout, scale and landscaping would be agreed through a future reserved matters application.

Access would be taken from Middleton Back Road running north / south on the eastern boundary of the site, for the western part of the site, and from both Middleton Back Road and Yarm Road, for the eastern part of the site which lies on the eastern side of Middleton Back Road.

An indicative masterplan is included within the application to demonstrate how the proposed development could be accommodated on the site, and the plan includes the following design principles:

- The provision of a range of house types within the development which will likely include a range of 2, 3, 4 and 5 bedroom properties across a range of densities;
- Dwellings in keeping with the character of the surrounding area including the use of materials predominant in the area;
- The inclusion of an east west walking route to introduce permeability and allow the site to be connected to the village and the doctors surgery site;
- New roundabout to replace the Yarm Road / Middleton Back Road junction to assist in reducing vehicle speeds and providing better flow for traffic travelling north from Middleton Back Road;
- The retention of trees and hedgerows, where possible;
- The retention of the existing public right of way and Cycle route;
- The provision of SuDs areas with associated amenity space to provide focal points to the development;
- A Comprehensive landscaping scheme to enhance the appearance of the site and the surrounding area and to enhance the ecological value of the site;
- Three new retail units (1,500m<sup>2</sup>);
- Land provided for a new single form primary school.

**Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website.**

### **Environmental Impact Assessment Requirements**

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

It is the opinion of the Local Planning Authority, that the proposal is development for which an Environmental Impact Assessment is not required as the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

### **PLANNING HISTORY**

In November 2016, planning permission was granted for the change of use of part of the site to enable the enlargement of the existing parking area of garage repair workshop (Stanway Commercials).

### **RESULTS OF CONSULTATION AND PUBLICITY**

A total of 6 letters have been received from local residents as a result of the consultation exercise undertaken, raising the following concerns:

- *Existing problems with surface water drainage;*
- *Proposal will create severe traffic problems in the area; School traffic will create a bottle neck;*
- *Extra large population surrounding a quiet community for older people – roads will be more dangerous for pedestrians and older people using the bus service;*

- *The potential large number of children will provide a security problem for the Middleton Hall Site;*
- *Extent of requests for new developments around the village are unbalanced, being too numerous and will fundamentally change the nature of the village, pedestrian safety, and the removal of both surface and foul water;*
- *This should remain an area of conservation to maintain the split between the two villages, maintaining local residential amenity;*
- *Concern regarding the safety of the area near the existing lorry park; Line of sight for traffic turning off Yarm Road is poor – the width of the road is narrow at this point, there is no pedestrian footpath on one side of the road and the rail bridge is narrow both for pedestrians and vehicles; There is bound to be a high number of vehicle movements at certain times of the day and with heavier vehicles delivering to the retail unit and the school; Suggest that this area should have a 30mph speed limit and that the proposed mini-roundabout constructed, and footpaths and lighting installed along the lane up to the entrance of Middleton Hall to also serve the residents of the retirement village who will be at increased risk due to the extra traffic generated by the development; A new separate path should be constructed through a pedestrian only tunnel opened under the railway alongside the existing bridge which would then allow for pedestrians and traffic to be kept away from each other at this squeeze point; The footpath between the rail bridge and Virginia Estate is narrow and unlit for much of its length, lighting and speed restrictions would aid safety; Road between site and Middleton Hall should be widened and resurfaced;*
- *Object to footpath leading from Chapel Street through the planned estate existing opposite Acorn Close; As plan shows the entrance / exit at Chapel Street would open up onto the lane which is not adopted by DBC and is shown on residents property deeds as their responsibility and must be kept clear for the Chapel Street residents to access the rear of their properties; This area is also used by DBC refuse collectors for the weekly refuse collections, and is used as a turning point for vehicles – this would therefore be a dangerous place for a footpath to begin and end;*

One letter was received on behalf of residents of Middleton Hall Retirement Village raising the following issues:

*Road Safety;*

- *The additional traffic on both Yarm Road and the unnamed road are of significant concern for our 190 elderly residents and 180 staff many of whom live in Middleton St George. For pedestrians and car users, a lowered speed limit of 30 mph on both roads is essential from 3/400m before the site access;*
- *The junction of Yarm Road and the unnamed road needs to be carefully planned for – we would support the additional roundabout. However the access under the railway bridge remains a concern, perhaps solved by widening the access under the bridge, by providing a separate pedestrian tunnel;*
- *Street lighting should be added to the unnamed road approaching the site from the west to improve visibility for vehicles, cyclists and pedestrians;*

*Bus Service;*

- *The proposed bus stop on the unnamed road is only on one side of the road. There are existing bus stops on both sides of the road outside Middleton Hall that are only 200-250m further to the west. Suggest that the footpath on the west*

*side of the road is extended to reach those bus stops (that have recently been upgraded with platforms at the request of Darlington Borough Council) rather than an additional stop;*

- *Suggest that the developer provides some financial support to extend the bus timetable to make it easier to access Darlington and St George's Medical Centre opposite the Virginia Estate at the start of the development to mitigate against the additional traffic that the development will generate;*

#### *Pedestrian Access / Street Lighting*

- *The pre-application consultation stated that there would be a footpath connection under the railway bridge. As mentioned above, the route from the development to Middleton St George would be better served by a separate pedestrian access under the bridge via an additional tunnel or widening under the railway bridge alongside the road access; This would provide a far safer route from Middleton St George to the proposed site and from Middleton St George to the Medical centre;*
- *There should be a widened footpath and street lighting on Yarm Road to improve the access from Virginia Estate and St Georges Medical Centre to Middleton St George. The proposed footpath on Yarm Road to be extended to the end of the development site and street lights added;*

#### *Recreation / greenspace*

- *There should be green space for children to use for informal sport – space for kicking around a football for example. This would alleviate concern from Middleton Hall residents about intrusion onto Middleton Hall land;*
- *To alleviate concern from residents in the Waterside at Middleton Hall, the further east corner of the proposed development should maintain the same distance from the hedge as the road running west / east (there appears to be a road running up to the hedge in the far corner). This is important as the hedge boundary appears to be closer to the Waterside than the site plan indicates.*

#### *General*

- *The new school and shops are welcomed and will enhance the facilities for the town that Middleton St George has become.*

The **Campaign to Protect Rural England** has objected to the proposed development on the following grounds:

- *Site lies outside of the development boundary and is contrary to saved policy E2 (Development Limits) and H7 (Areas of Housing Development Restraint) of the Borough of Darlington Local Plan, and Core Strategy Policy CS1 (Darlington's Sub-regional Role and Locational Strategy) and CS14 (Promoting Local Character and Distinctiveness);*
- *The proposal does not meet any identified rural needs;*
- *The proposal will not positively contribute to the character of Middleton St George or its local area and to its sense of place;*
- *Darlington now has a five-year housing supply meaning that policies relating to housing carry full weight – any proposals that enhance that housing supply should comply with the development plan; This proposal clearly conflicts with the development plan and according to paragraph 12 of the NPPF it should therefore be refused;*

- *The proposal cannot be considered to be sustainable development and there are no substantial and demonstrable benefits which outweigh this position.*

**Middleton St George Parish Council** has objected to the proposed development on the following grounds:

- *Contrary to policy;*
- *Highway impacts;*
- *Footpath from Chapel Street not appropriate;*
- *Cumulative impact on safety and amenity of development in village;*
- *Pressure on drains and sewerage system;*
- *Breaches of conditions on other housing developments;*
- *Premature as Local Plan still under development;*
- *Inadequate bus service.*

The Council's **Environmental Health Officer** has raised no objections to the proposed development subject to planning conditions requiring submission, agreement and compliance with a Construction Management Plan, noise and contaminated land.

The **Local Lead Flood Authority** has raised no objections to the proposed development subject to planning conditions requiring submission, agreement and compliance with a scheme of Surface Water Drainage and management, and that the development is carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy.

**Northumbrian Water** has raised no objections to the proposed development subject to the planning conditions to secure submission, agreement and compliance with details of a scheme for the disposal of foul and surface water from the development.

The **Ecology Officer** has recommended a number of planning conditions / S106 items regarding retention of trees, compliance with proposed mitigation, timing of surveys, and net gain in biodiversity (full comments included within the report).

The Council's **Public Rights of Way Officer** has raised no objections to the proposed development subject to access to along Footpath No. 3 which runs north / south through the centre of the site, being maintained during construction, which can be secured through submission and agreement of a Construction Management Plan. Also requested is a contribution from the developer to improve the condition of the path given the likely increased use of the route.

**Highways England** has raised no objections to the proposed development subject to S106 contributions towards the Strategic Road Network relating to Little Burdon and Morton Palms Roundabouts.

The Council's **Highways Officer** has raised no objections to the proposed development subject to planning conditions to secure submission and agreement of, and compliance with a Construction Management Plan, together with a planning condition to secure submission and agreement of details of works within the public highway, a Road Safety Audit and Vehicle Swept Path Analysis.

The Council's **Transport Policy Officer** has requested a planning condition to secure submission and agreement of a site specific travel plan for the school and retail elements of the scheme. Also requested is a public transport contribution to improve Service 12 frequency / availability.

The **County Archaeologist** has been consulted and has requested further pre-determination field evaluation and trial trenching.

The **Police Architectural Liaison Officer** has provided advice on the principles of designing out crime, which would be taken into account in a detailed reserved matters submission. The crime risk assessment for this development (based on recorded incidents in the surrounding area) is considered to be low.

**Network Rail** has raised no objections to the proposed development subject to a number of conditions and informatives to be attached to any approval.

**Northern Gas Networks** has raised no objections to the proposed development.

**Northern Powergrid** has raised no objections to the proposed development.

## **PLANNING POLICY BACKGROUND**

### **National Planning Policy Framework 2018 (NPPF)**

#### **Borough of Darlington Local Plan 1997**

E2 – Development Limits

E12 – Trees and Development

H7 – Areas of Housing Development Restraint

#### **Darlington Core Strategy Development Plan Document 2011**

CS1 – Darlington's Sub-Regional Role and Locational Strategy

CS2 – Achieving High Quality, Sustainable Design

CS3 – Promoting Renewable Energy

CS4 – Developer Contributions

CS10 – New Housing Development

CS11 – Meeting Housing Need

CS14 – Promoting Local Character and Distinctiveness

CS15 – Protecting and Enhancing Biodiversity and Geodiversity

CS16 – Protecting Environmental Resources, Human Health and Safety

CS17 – Delivering a Multifunctional Green Infrastructure Network

CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

#### **Tees Valley Minerals and Waste Development Plan Document**

Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

## **Other Documents**

Design of New Development Supplementary Planning Document, July 2011  
Planning Obligations Supplementary Planning Document, January 2013

## **PLANNING ISSUES**

The main issues to be taking into consideration are:

- Planning Policy
- Principle of the development
- Impact on the character and appearance of the countryside
- Loss of agricultural land
- Highways and Sustainable Transport
- Surface Water and Flood Risk
- Design and Layout
- Ecology
- Trees
- Impact on non-designated Heritage Assets (Archaeology)
- Residential Amenity
- Contamination
- Developer Contributions
- Delivery

## **Planning Policy**

Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

### Five year housing land supply position

In relation to housing, the NPPF (2018) requires local authorities to plan positively for housing development to meet the needs of their area.

The Ministry for Housing Communities and Local Government have recently announced that Councils should start using the government’s new standard method for assessing housing need immediately when determining applications. National Planning Policy Guidance has also very recently been updated to reflect this. Paragraph 30 of the guidance states, housing requirement figures identified in strategic policies should be used as the starting point for calculating the five year land supply figure for the first five years of the plan and where the strategic housing policies plans are more than 5 years old, but have been reviewed and are found not to need updating. In other circumstances, the starting point for calculating the five year land supply will be local housing need using the standard method. Utilising the local housing need figure for Darlington (122 dwellings per annum), which factors in the latest 2016 household



projections, the Council considers that a 48.9 year supply of deliverable housing land can be demonstrated. This being the case, as Darlington Borough Council can demonstrate a five year supply of housing land, relevant policies for the supply of housing should be considered up to date and the titled balance in para 11 of the NPPF (2018) is not engaged.

A 20% buffer has been applied to this figure due to previous under delivery. However, if considered against local housing need of 122 dwellings per annum, delivery has exceeded this figure.

The Council has produced a Five Year Housing Land Supply Position Statement (October 2018) which sets out the housing land supply position for the period 1 April 2018 to 31 March 2023, when measured against the local housing need figure.

It is relevant to note that this housing supply includes a number of sites which are located beyond development limits but have been assessed and are considered as being suitable and deliverable for housing development in the emerging Local Plan.

## **Principle of the development**

### Residential

The aim of policy E2 is to direct new development to within the development limits of the village and to safeguard the character and appearance of the countryside. The application site is located beyond the development limits of the village and therefore residential development would be contrary to saved policy E2 (Development Limits) of the Darlington Local Plan 1997 and Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) of the Core Strategy (2011).

As stated above the application must be determined in accordance with the development plan unless material considerations indicate otherwise. Although the application is contrary to policy E2 there are other material considerations which should be considered in the planning balance.

The Council is currently preparing a new Local Plan and a draft version has been consulted upon. Evidence base work to support the emerging Local Plan included an update to the Strategic Housing Market Assessment which was published in Oct 2017. This work, which should be considered as a material consideration, indicated that 8,440 dwellings will be required over 2016 to 2036, an average of 422 dwellings per year. This housing requirement is significantly higher than the Government's local housing need figure for Darlington. The Council considers that there is strong evidence to justify the higher housing requirement figure which has been used to assist preparation of the emerging Local Plan.

The application site is considered to be suitable for housing in the emerging Local Plan and is proposed for allocation. In line with Government policy and guidance, the emerging Local Plan can only be afforded limited weight at this stage in its preparation. As outlined above, the Council can comfortably demonstrate a five year housing land supply at this point in time against the local housing need figure (122), which does

include the application site. However, once the new Local Plan is adopted, the housing land supply will be assessed against the Council's housing requirement of 422. As such, it is important that the Council continues to support and grant planning permissions on sites which have been identified as suitable for residential development and are proposed allocations in the emerging Local Plan. If this approach is not taken, there is the danger that the Council will not be able to demonstrate a five year housing land supply when the new Local Plan is adopted. In effect the tilted balance of paragraph 11 of the NPPF would once again apply and the Council would have limited control on the location of new housing development.

## Retail

With regards to the retail element of the scheme the proposed unit is approximately 1500sqm (gross). It is also located beyond the development limits of the village and is not within an existing centre. Paragraph 86 of the NPPF (2018) states local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan.

The nearest existing centre is at Middleton St George to the west. This centre is referenced in Core Strategy policy CS9 and is mapped in the Interim Planning Position Statement. The defined retail centre is tightly drawn and comprises of two storey premises with no open land for development potential. It is not considered that a sequentially preferable site is available.

There are no local thresholds for an impact assessment within the Core Strategy and the proposed unit is below the threshold set out in paragraph 89 of the NPPF (2018) (2,500sqm). Consequently an impact assessment is not required.

Policy CS9 also states that individual local shops which meet the day to day needs of nearby residents without the need to use a car will be protected and promoted. Proposed new shops in such circumstances will be limited to a maximum 100sqm gross floorspace unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated, in which case convenience shops up to 400 sqm gross floor space will be permitted. The proposal is for three units with a combined floor space of 1,500sqm (gross), consequently there is conflict with policy CS9. There is also no indication of the type of retail unit proposed.

A convenience store has recently been approved on land to the north of the application site (ref 18/00509/FUL) and there is a concern that further retail uses could detract from the existing centre. Middleton St George, is however one of the large serviced villages in the borough and the Council are proposing a number of housing allocations in the area in the emerging Local Plan, including the application site. Further need for retail uses could therefore arise in the future. The proposal would help to meet these needs and also offer further choice to local residents in addition to the existing constrained centre.

In view of this context, on balance, there are no policy concerns with this element of the scheme. It is however suggested that the retail units are conditioned to prevent them

from being combined into one large unit and to ensure that their uses fall within either Class A1 (shops), Class A2 (Financial and Professional) or A3 (Restaurants and Cafes).

### Primary School

There are no policy concerns with regards to land being reserved on the site for a new primary school as this will address future provision if the need arises.

### **Impact on the Character and appearance of the countryside**

One of the Core Planning Principles of the NPPF is that planning should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place. This includes protecting and enhancing the separation and the intrinsic qualities of the openness between settlements. Saved Local Plan Policy E2 (Development Limits) relates to the protection and character of the countryside. The reasoned justification to this policy seeks to maintain well-defined settlement boundaries and safeguard the character and appearance of the countryside by strictly controlling development outside of development limits.

The site adjoins the eastern edge of the built form of the village. Although it is physically separated from the village by the Darlington to Middlesbrough railway line and by Yarm Road, the development would be seen in the context of surrounding residential properties to the north and west and other committed development to the north and north east. The existing site provides limited visual relief, due to its position in relation to existing buildings, and the railway line. Overall, although the proposal will result in the loss of some open grassland, it will also result in an improvement in visual amenity in terms of the removal of the existing haulage element.

Issues relating to the layout of the development, the scale, the appearance of the dwellings and the landscaping are all reserved matters that will be considered at a later stage. These matters will however be given full consideration when any application(s) for reserved matters are submitted.

Overall, the proposal is considered to be acceptable in respect of its impact on the character and appearance of the countryside.

### **Loss of Agricultural Land**

Paragraph 170 of the NPPF states that local planning authorities should take into account the economic, and other, benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in

preference to that of a higher quality. In cases where there is doubt about the quality of the land, the applicant would be asked to submit further information. In this case, the land the subject of this application is considered to be moderate in terms of its agricultural land quality due to its position and constraints. A recent appeal decision has determined that the development of less than 20 hectares of land, is not significant in the context of paragraph 170 of the NPPF . In this context it is considered that the impact of the proposal on the loss of agricultural land is not significant.

## **Highways and Sustainable Transport**

A Transport Assessment (TA) prepared by SAJ Transport Consultants (December 2017) has been submitted in support of the application. The assessment concludes that the proposed residential units would generate in the order of 315 two way trips in the AM peak hour and 326 in the PM peak hour. The proposed primary school is (based on 210 pupils) predicted to generate 101 two way trips in the AM peak hour and 30 in the PM peak hour. The retail centre development is predicted to generate 59 two way trips in the AM peak hour and 121 vehicle movements in the PM peak hour.

The performance of all new priority junctions has been assessed and it is demonstrated that they would all operate satisfactorily. Similarly, the proposed new compact roundabout on Yarm Road has been assessed for both the AM and PM peak periods and the results demonstrate that it would operate satisfactorily.

Existing priority junctions and roundabouts have also been assessed for operational performance (this includes Woosington Drive / Yarm Road Roundabout, Station Road / Yarm Road / Middleton Lane Mini-roundabout, the A67 / Mill Lane / Yarm Road Roundabout, the A67 / Sadberge Road Roundabout and the A67 / Station Road Priority junction. This demonstrates that generated traffic from the development would not have a significant operational impact on the surrounding local road network.

An accident study has been provided as part of the assessment which shows that there were 14 recorded incidents within the defined study area, within the last five years, of which 13 were classed as slight, 1 serious and 0 fatal. It is shown the 12 (86%) of the incidents happened at junctions and the remaining 2 (14%) occurred on the link roads between junctions. This result is not unexpected as there are always more hazards at junctions than on links.

It has been proposed to take access to the development from Middleton Back Road, which is an adopted unclassified road and presently subject to a 60mph speed limit. It is anticipated that the speed limit will be reviewed and likely reduced to 40mph pending consultation with Durham Police. Two separate access junctions are proposed on Middleton Back Road, with an additional access taken off the southern side of Yarm Road. The junctions are designed to adoptable standards with visibility splays appropriate to a 40mph speed limit. Removal of some hedgerow at these points will be essential on the ground of road safety. A footway of a minimum width of 2m with tactile paving and drop kerbs where appropriate should be provided at the site access and run the length of the development frontage and be connected to form suitable links to the surrounding infrastructure.

The principle of the new roundabout to replace the Yarm Road / Middleton Back Road junction is acceptable and will be useful in reducing vehicle speeds and providing better flow for traffic travelling north from Middleton Back Road. Pedestrian connectivity between the proposed development and the village is poor and there are concerns raised by objection that a proposed link from Chapel Street will require the passage of 3<sup>rd</sup> party land as the back lane running past no's 26 and 27 is not adopted highway.

Further consideration of this should be undertaken and this matter should be addressed in any future reserved matters applications as the plan submitted is indicative only. A possible solution to improve pedestrian permeability and provide a safe route to school would be to dedicate the existing farm track leading from High Scrogg Farm to Yarm Road, solely to pedestrians and cycle users, with suitable improvements to the surface and provision of street lighting as required by safe routes to school criteria. Farm traffic could be diverted to the southern boundary where an existing track exists to provide the necessary vehicle access. A suitably worded planning condition can be attached to any approval to secure submission and agreement of the links through the site, further to additional consideration given to how these can be achieved in the best interests of all users.

Subject to a number of conditions the Council's Highways Officer has raised no objections.

It should be noted that internal consultees considered that it would be desirable to have a footway running from Middleton Hall Retirement village to the village centre, with a suitable street lighting design included. Whilst this is considered to be desirable, it is not considered that this would meet the tests of being reasonable or necessary to mitigate against the impact of the development.

Highways England has been consulted and have liaised with the developer and the Highway Authority to agree a Strategic Network Contribution, based on a contribution model used for other significant developments, to both Little Burdon (£68,218.38) and Morton Palms (£208,008.45) roundabouts.

Service 12 operates a one way loop past the site, with the current closest bus stop being at Acorn Close. This is an hourly service Monday to Saturday with no evening or Sunday service. The proposed bus stops on Yarm Road and Middleton Back Road would help to reduce walking distances to a bus stop and also offer residents who are unable to walk the 600m to the relocated Doctors surgery, an alternative.

Dinsdale Railway Station is approximately 1km from the site providing links along the Bishop Line (Saltburn to Bishop Auckland). This northern service is half hourly. A contribution of £297,000 is sought to contribute to the enhancement of public and sustainable transport within the village. This will ensure that the development is served by a half hourly bus service Monday to Saturday and that services within the village are accessible by sustainable modes.

A Residential Travel Plan prepared by SAJ Transport Consultants Limited (December 2017) has been submitted in support of the application. The document seeks to provide a framework of measures to encourage a reduction in private car useage, an increase

in the use of sustainable modes of travel, and to improve the overall accessibility of the development.

The Council's Sustainable Transport Officer advises that the school and retail sites would need to provide a site specific Travel Plan and that this should be secured by planning condition. The residential travel plan should include more measures to encourage a modal shift in residents and these can be secured by planning condition. To encourage more public transport use, the applicant proposes to provide each residential dwelling with a bus pass, and this is included in the list of planning contributions below.

Cycle parking should be provided for the residential, school and retail elements of the scheme and details of this can be secured by planning condition.

### **Surface Water and Flood Risk**

The proposed development is situated within Flood Zone 1. The Environment Agency's surface water flood maps highlight areas of the site to be at medium and low risk of surface water flooding. SuDs areas are identified within the indicative layout.

A Flood Risk Assessment and Surface Water Management Strategy undertaken by ID Civils Design Limited (December 2017) was submitted in support of the application. This identifies the current site drainage characteristics and also that there are no other significant sources of flood risk at the site. The report proposes a surface water and foul water drainage strategy.

Stockton Borough Council, who acts as the Council's technical advisors for SuDs as Local Lead Flood Authority (LLFA), has assessed the level of information submitted with this application and has indicated that careful consideration should be given to existing blue / green corridors and surface water flooding when determining the site layout and the location of surface water attenuation structure. The applicant proposes to discharge into the unnamed watercourse that crosses the site. The LLFA do not raise concerns to the development subject to a condition being attached to any forthcoming approval that requires the developer to submit a full Surface Water Drainage and Management scheme for the whole site that must include detailed design of the surface water management system, build program for the provision of the critical surface water drainage infrastructure, management plans, details of adoption responsibilities and management plans / maintenance and funding arrangements.

### **Design and Layout**

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network.

Issues relating to the layout of the development, the scale, the appearance of the dwellings and the landscaping are all reserved matters that will be considered at a later

stage. These matters will however be given full consideration when any application(s) for reserved matters are submitted.

## **Ecology**

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping.

Saved Policy E21 (Wildlife Corridors) states that development which would materially harm the wildlife habitat value of linear features providing corridors within which wildlife can move and live, including the open land network within the urban area where it forms continuous corridors, rivers and streams, road and rail corridors, woodlands, hedgerows and green lanes will not be permitted. It goes on to state that harm will be assessed according to the impact of development on the value of the feature in terms of its continuity and ecological structure and diversity; and that the landscaping of new development within or adjacent to wildlife should, where appropriate, incorporate semi-natural habitats which contribute to maintaining the wildlife value of the corridor.

This is in general accord with paragraph 170 of the NPPF, which states that the planning system should contribute to and enhance the natural and local environment by; protecting and enhancing valued landscapes, geological conservation, interests and soils; and, recognising the wider benefits of ecosystems services; and, minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 175 of the NPPF states that when determining planning applications, local planning authorities should apply a number of principles, including ; a) if significant harm to biodiversity from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort compensated for, then planning permission should be refused; b) development resulting in loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and c) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

A Preliminary Ecological Assessment (September 2017) prepared by Naturally Wild, was submitted with the application and a further revised Ecological Impact Assessment (September 2018) was submitted further to requests for further surveys.

The report makes a number of observations, including the following;

- A. That the site comprises a mixture of semi-improved grassland, unmanaged semi-improved grassland, hardstanding and buildings;
- B. A number of trees on the site were considered suitable for roosting bats; The majority of trees were of low suitability for roosting bats although some were assessed to be of moderate and high suitability; The XPO office building on site was considered to be of low suitability; As this building is expected to be demolished as part of the proposed works, further survey effort to confirm the presence of likely absence of roosting bats is required;
- C. Bordering hedgerows were considered suitable for foraging and commuting bats due to the high levels of insect activity that would be attracted by the vegetation and the direct connectivity to linear features extending off site; It is expected that the majority of existing trees and hedgerows will be retained and incorporated into the new development, however some of this habitat will be lost in order to facilitate the works, therefore appropriate mitigation and compensation would be needed to be incorporated into the works in order to minimise the potential impact to commuting and foraging bats;
- D. Results of survey work indicate that the XPO office building is used on an occasional basis by small number of common pipistrelle (likely to be only a single bat) but is not a roost of significant conservation value; The demolition of the building would result in the loss of the roost present which is considered likely to have a moderate to high negative impact at site level, but due to the presence of only an individual bat of a common species present, a low impact at a wider level;
- E. Trees and hedgerows on site were considered to offer moderate to high value for nesting birds, with the XPO buildings also offering some potential for nesting and roosting; The demolition of the XPO buildings and the loss of any trees and hedgerows would have a negative impact at site level on nesting birds;
- F. The area of unmanaged semi-improved grassland on site would be considered of suitable foraging value for reptiles, however due to the lack of open basking areas and sheltering value, alongside poor connectivity to other suitable habitats, the site is considered to offer low risk to the presence of reptiles (with no records of reptiles in the 1km area around the site according to desktop data);
- G. The unmanaged semi-improved grassland was considered suitable for foraging Great Crested Newts but there was limited refugia for shelter; The grassland did provide some sheltering structure in patches but would generally be of low value; The nearest pond to the application site is 30m to the east but appears to be ephemeral and was dry at the time of survey; The nearest inundated pond was 200m to the east. The railway line to the north and the residential areas to the north and west act as barriers to dispersal from ponds to the north and west. The closest record of Great Crested Newt in the desk top data provided is from a pond 570m to the west of the site, but there is very little favourable habitat between that pond and the application site; Overall it is not considered that the proposed development will incur any impact to Great Crested Newts providing appropriate mitigation measures are adopted;
- H. No evidence of presence of the western European Hedgehog was noted on site;
- I. There is very limited connectivity to the Local Nature Reserve beyond the housing to the north;



- J. The railway embankment adjacent to the northern boundary would present suitable habitat for a badger sett, however there was no evidence to suggest a sett was present; the semi-improved grassland areas would also be considered of foraging value for badger, but no evidence of badger activity was recorded on the site; the closest and most recent record of badger is 310m from the site and so badgers are likely present in the local vicinity; Overall, it is not considered that the development will have a significant impact on badgers;

As a result, the report makes a number of recommendations to mitigate the development including:

- a. Appropriate mitigation measures for bats during demolition works (mitigation licence will need to be obtained from Natural England to allow works to the XPO office building to proceed), with appropriate mitigation measures then implemented during the demolition works; This would be provided in the method statement which forms part of the licence application however would include; removal of the roofing features in the roost location following the soft-strip protocol and under the supervision of a qualified and licenced ecologist; suitable compensatory roosting habitat would also need to be incorporated;
- b. Recommendation for the retention of trees assessed to be of suitability for bats, and to incorporate these features into the landscaping; If not possible, further assessment of the high and moderate suitability trees would be required to ensure the loss of these trees does not significantly impact roosting bats;
- c. Trees, shrubs and hedgerows to be retained are to be protected using appropriate root protection methods in accordance with the British Standard;
- d. Works to buildings to be carried outside of the bird nesting season;
- e. Due to suitable foraging habitat for badgers, any trenches or excavations that are created during the works should be back-filled or covered the same working day that they are created; if this is not feasible a suitable means of escape should be provided in the form of a ramp at least 300mm wide and at an angle of no greater than 45 degrees;
- f. In the unlikely event that Great Crested Newts and Reptiles are encountered, it is a legal requirement to stop work and contact an ecologist to discuss an alternative approach;
- g. Any hedgehogs found during site works should be carefully moved to a safe location away from the works, or allowed to move of their own accord;
- h. A sensitive lighting scheme to be implemented during and after construction to avoid disturbance to foraging and commuting bats and other nocturnal wildlife;

The report makes a number of recommendations to compensate, including;

- Bat boxes to be installed at a suitable location on site, or a suitable bat brick incorporated into one of the new buildings;
- Planting of appropriate, complimentary tree and shrub species should be carried out along the site boundaries, planting up gaps in the existing hedgerows to provide a more robust, species-rich habitat for commuting and foraging bats and other species;
- Nesting boxes to be provided;

The Ecology Officer has been consulted and has made the following comments:

*As usual, I would recommend conditioning of all the mitigation, compensation and enhancements of the report, which includes a lighting strategy, construction methodology, etc.*

*As per the report, a strong recommendation has been made to retain the most important trees within a landscaping scheme. I would concur that this is an essential element of the design, as these constitute high and medium bat roost value and migration corridor function. The boundary trees seem to be protected on the site boundary, but the internal tree corridor running north / south, located in the western part of the site should be protected and enhanced within an approximate 25m buffer zone and connected to other habitat or landscaping. Presently this area is to be lost and housing built.*

*Lowland Farmland birds would seem to be one of the most significantly impacted biodiversity features. Although hedgerows and their retention protects nesting and courtship function, foraging areas within fields would not be, which would like lead to the decrease in population sizes. I would like this to be re-examined for a solution on site, but if this is no possible, S106 may be required to offset this residual impact.*

*As the application stands, I believe that not all planning obligations have been met, as further solutions are required.*

Further comments received from the Ecology Officer state:

*I would recommend conditioning a metric (Warwickshire model) applied to assess residual impacts on biodiversity, to ensure a net gain. A net loss of biodiversity would trigger the need for S106 to deliver habitat creation off site. The exact values and costs of this can only be done once final layouts have been submitted.*

*All survey information should be within two years of commencement date.*

The above comments have been considered alongside the conclusions and recommendations of the Ecology report, and in the context of national and local policy. The Ecology report concludes that as part of the compensation provided for the loss of the existing bat roosts, the compensation measures offered should be sufficient to also provide an overall enhancement in the provision of roosting habitat to provide an overall net gain in biodiversity, in accordance with the National Planning Policy Framework. The report also acknowledges the potential impact on the breeding bird population.

However the report goes on to make a number of other recommendations for enhancements including the measures to bats being applicable to providing suitable compensation / enhancement for nesting birds; and the use of native plant species and or species of known wildlife value that will enhance the ecological value of the site, for local populations of invertebrates, birds, bats and small mammals, in the landscaping scheme to be agreed as part of any future reserved matters application.

It should be noted that the 'Warwickshire model' as referenced by the Council's Ecology Officer, relates to a pilot run by DEFRA where a number of local authorities were chosen to pilot net gain policies in 2012. At present, whilst good practice guidance is available, there is no policy guidance at national level and the concept is not enshrined in local policy, nor the principles of ensuring net gain incorporated in any local supplementary planning document.

In addition, the National Planning Practice Guidance states that Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for residual adverse biodiversity impacts arising from a development after mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and *preferably* a net gain of biodiversity. As above, the submitted ecology report concludes that if implemented in accordance with recommendations for mitigation, compensation and enhancement, the scheme will deliver net gain.

Overall, it is considered that subject to a condition to secure submission and agreement of the above details, together with a condition to require compliance with the recommendations, it is considered that the proposed development will conserve and enhance the natural environment, providing an overall net gain for biodiversity, in accordance with the National Planning Policy Framework.

## **Trees**

Saved Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows on and adjoining the site.

An Arboricultural Impact Assessment undertaken by Elliott Consultancy Limited (December 2017) was submitted in support of the application. None of the trees within the site are protected but the intention is to retain existing trees and hedgerows where possible.

The report identifies that the construction of the illustrative masterplan would necessitate the potential removal of six individual trees, two groups of trees and some hedgerows. It also identifies that the development of the illustrative masterplan would result in potential conflicts relating to damage to trees within the site during demolition and construction. However, it should be noted that this layout is indicative and serves to demonstrate how the site might be developed and the overall arboricultural impact of the development can only be established once a detailed scheme has been produced, which should take into account the need to retain as many natural features as possible, particularly taking into account the conclusions of the Ecology report (above) which require a number of trees be retained due to their nature conservation value.

It is recommended that a planning condition be attached to any approval to require submission and agreement of a Tree Survey, together with details of adequate tree protection, to ensure that those trees to be retained in the eventual final layout (which would be subject to a future reserved matters application to include additional landscaping), are sufficiently protected.

## **Impact on non-designated Heritage Assets (Archaeology)**

Paragraph 197 of the NPPF requires the effect of an application on the significance of non-designated heritage assets to be taken into account in the determination of planning applications. It goes on to state that in weighing applications that directly or indirectly affect a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset.

Paragraph 199 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

Durham County Archaeology Team has been consulted and requested that pre-determination field evaluation following by trial trenching would be required to allow the archaeological impact of the development to be fully understood.

In this case, due to part of the site being an operational haulage yard, and therefore there exist limitations to any pre-determination works, and the likely phasing of any development, officers have agreed with the applicant that a planning condition can be attached to any approval to require post-determination evaluation works, which would include mitigation if necessary.

## **Residential Amenity**

Residential amenity in terms of the layout of the site and achieving an acceptable level of amenity for existing and future residents will be given full consideration when any application(s) for reserved matters are submitted.

The application has been submitted with an Air Quality Assessment prepared by Miller Goodall Consultants (2018). The report considers the impact of vehicle exhaust emissions associated with the proposed development on receptors in the surrounding area. It has concluded that the impact of the development on the prevailing air quality in the area will be negligible, largely because of the predominantly good air quality which currently exists in the vicinity of the development.

The Council's Environmental Health Officer has been consulted and agrees with the conclusions of the report, which demonstrates that the impact of the development will be significantly below air quality standards designed to safeguard health. It is therefore considered that mitigation measures to offset the impact of the development on air quality are not required.

The report also assesses the potential impacts of construction dust (an air pollutant) created during the construction phase of the development. The report has recommended a number of measures to minimise the impact of construction dust from the development on the surrounding area. The Council's Environmental Health Officer

has reviewed this information and has recommended that a condition be attached to any approval to require submission and agreement of a full Construction Management Plan, which would include the assessment of potential impacts of construction dust, but would also consider such issues as construction traffic routes, parking, details of wheel washing and proposed hours of construction.

A Noise Impact Assessment prepared by Apex Acoustics (February 2018) was submitted with the application. Noise measurements were taken at three locations around the site and the resultant levels have demonstrated that noise at the site would not prohibit the site from being developed as set out in the plans. The Environmental Health Officer has been consulted and has indicated that once more detailed plans are known (at reserved matters stage) further noise assessments will be required to more accurately determine suitable glazing and ventilation strategies for the dwellings, school and retail elements across the site.

To this extent, the Environmental Health Officer has recommended a planning condition be attached to any approval to require submission and agreement, and subsequent compliance with, a noise impact assessment for each phase of development.

### **Contamination**

A Phase 1 desktop study and site walkover prepared by CGL (December 2017) was submitted with the application. The report identifies that historically, the site has been used as a railway line and spoil mounds, slag works, a depot and a garage. These past and current activities could have given rise to land contamination and recommends that further site investigation is undertaken.

The Council's Environmental Health Officer has been consulted and is satisfied that the Phase 1 report is sufficient to satisfy the first part of the standard planning conditions (CL1 which requires a site investigation strategy). It is recommended that should planning permission be granted, standard contamination conditions CL2-CL6 be attached to any approval. These deal with site investigation works, a remediation and verification strategy, Construction / remediation works and a Verification and Completion report.

### **Developer Contributions**

Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The agreed Heads of Terms proposes the following:

- i) £208,008.45 Morton Palms Network Contribution;
- ii) £68,218.38 Little Burdon Network Contribution;

- iii) £297,000 to contribute to enhancement of public and sustainable transport within the village;
- iv) Transfer of land for the construction of a school in lieu of an Education Contribution;
- v) One bus pass to be provided to each residential dwelling constructed on the site to encourage more sustainable modes of transport.

The developer has agreed that 20% affordable housing will be provided on-site and that this will be dealt with by way of a planning condition.

The above were considered with reference to the Planning Obligations SPD and in close liaison with internal consultees. Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

The Council's Transport Policy Officer has also requested that given the size and proximity of the development in relation to the Dinsdale Railway Station, there may be significant impacts on the station, with a contribution required towards station facility improvements, which could include waiting facilities, additional customer information facilities, additional security, or additional cycle facilities. The station is within easy walking distance of the proposed development site and provides sustainable transport links by rail to Darlington in one direction and Eaglescliffe in the other providing connections to mainline destinations. Whilst the above has been given consideration, it is not considered that this meets the tests set out above and this therefore has not been included in the above Heads of Terms.

## **Delivery**

To ensure the Council maintains a five-year supply of housing land and to progress to the delivery of dwellings within a short time frame, a condition is recommended which sets a short time scale for the submission of the reserved matters application. A period of 18 months is considered appropriate.

## **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **CONCLUSION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).

Despite the conflict with Saved Policy E2 (Development Limits) of the Borough of Darlington Local Plan 1997, the application site is in an area which the Council considers to be suitable for housing development and are proposing for allocation in the emerging Local Plan. When considered in the context of the emerging Local Plan and the contribution that the proposal will make to the 5 year supply of housing land, the principle of residential development is considered to be acceptable on the application site in this instance.

The proposal does not result in any adverse impacts on highway safety, surface water drainage or on residential and visual amenity, with appropriate mitigation measures in place to be secured by planning conditions. Appropriate planning obligations have also been negotiated and would be secured by a Section 106 Agreement, to mitigate against the impacts of the development.

## **RECOMMENDATION**

THE DIRECT OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- i) STRATEGIC NETWORK IMPROVEMENTS;
- ii) GIFTING OF SCHOOL SITE TO THE COUNCIL FOR PROVISION OF A SINGLE FORM PRIMARY SCHOOL IN LEIU OF A FINANCIAL EDUCATION CONTRIBUTION;
- iii) SUSTAINABLE TRANSPORT CONTRIBUTION;
- iv) PROVISION OF ONE BUS PASS PER DWELLING.

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND REASONS:

**SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THIS PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVE STATUS OF THE PERMISSION SHALL BE CONSIDERED TO BE A REFUSAL ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS), WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE. THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:**

The proposed development would be contrary to Policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for strategic highway network improvements, sustainable transport and education in order to mitigate the impact of the proposed development.

## CONDITIONS

1. Approval of the following details ("the reserved matters") in respect of the development shall be obtained from the Local Planning Authority in writing before the development is commenced:
  - a) layout
  - b) scale
  - c) appearance
  - d) landscaping

The development shall not be carried other than in accordance with the approved plans. Application(s) for the reserved matters for any building/s or phase of development shall be made to the local planning authority before the expiration of eighteen months from the date of this permission.

REASON – To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990 and to ensure the speedy provision of this site for the approved development.

2. The development hereby permitted shall be begun either before the expiration of;
  - (a) three years from the date of this permission, or
  - (b) one year from the date of approval of the last of the reserved matters to be approved; whichever is the later.
3. PL (Accordance with plans)  
Y81:1054.06 Revision D Developable areas  
Y81.1054.05 Revision D Illustrative masterplan
4. E3 Landscaping (Implementation)
5. No development shall take place on the western section of the application site (to the west of Middleton Back Road) until the existing industrial / haulage uses have fully ceased operation.

REASON – In the interests of residential amenity and highway safety.

6. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - a) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units;
  - b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;



- c) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
- d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – To comply with Council Housing Policy

5. The development hereby approved, as it affects that part (or phase) of the site to be developed, shall not be commenced on site, until a scheme of 'Surface Water Drainage and Management' for the implementation, maintenance and management of the sustainable drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The scheme shall include, but not be restricted to providing the following details:
  - i. Detailed design of the surface water management system including design water levels and finished floor levels demonstrating a suitable freeboard;
  - ii. A build program and timetable for the provision of the critical surface water drainage infrastructure;
  - iii. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
  - iv. Details of adoption responsibilities;
  - v. Management plan for the Surface Water Drainage Scheme.

The building hereby approved shall not be brought into use until the approved 'Surface Water Drainage' scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

6. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and Drainage Strategy dated 11<sup>th</sup> December 2017 and the following mitigation measures detailed in the FRA.
  - Limiting the surface water run-off generated by the impermeable areas of the development up to and including the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of

flooding off-site. This will be achieved in accordance with section 10.6 and 10.7 stating a post development discharge limit of 224.3l/s (subject to condition below.

- Further, the applicant shall demonstrate that the existing positive drainage network is currently operable. Otherwise, the existing impermeable area shall be considered as greenfield for the pre-development run-off calculations.

The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the Local Planning Authority.

REASON – To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

7. No dwellings should be occupied until the surface water management system for the development or any phase of the development is in place and fully operational. A maintenance plan detailing how the surface water management system will be maintained during the construction phase must also be submitted and approved in writing by the Local Planning Authority.

REASON – To reduce flood risk and ensure satisfactory long term maintenance for the lifetime of the development.

8. Development, as it affects that part (or phase) of the site to be developed, shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved, has been submitted to and approved in writing by, the Local Planning Authority. Thereafter, the development shall not take place otherwise than in complete accordance with the approved details.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

9. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, a Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include the following:
  - a) Methods for controlling dust from the construction activities on site. These have already been outlined in the Miller Goodall Air Quality Assessment submitted with the application and should be incorporated into the CMP as part of the measures necessary to control dust on the site;
  - b) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management 'Guidance on the assessment of dust from demolition and construction' February 2014;

- c) Methods for controlling noise and vibration during the demolition and construction phase7. which shall take account of the guidance contained within BS5228 'Code of Practice for noise and vibration control on construction and open sites' 2009;
- d) Construction Traffic Routes, including parking areas for staff and visitors;
- e) Details of wheel washing;
- f) Road Maintenance;
- g) Warning signage;
- h) Details of parking for show homes.

REASON – In the interests of highway safety and residential amenity.

10. Prior to the commencement of the development as it affects that part (or phase) of the site to be developed and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and CLR11) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination sources, hazards and impacts. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.

11. Prior to the commencement of the development as it affects that part (or phase) of the site to be developed, or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be

implemented and occupied with adequate regard to environmental and public protection

12. Prior to the commencement of the development as it affects that part (or phase) of the site to be developed, or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use, and shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. No alterations to the Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the approved Phase 3 Remediation and Verification Strategy.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

13. Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

14. A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies and validation results obtained to demonstrate the completeness and effectiveness of all approved remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development **as it affects that part (or phase) of the site to be** developed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

15. For each phase of development, prior to, or at the same time as any reserved matters application, relating to layout, scale, appearance and landscaping, a noise impact assessment and a scheme to protect any noise sensitive receptors from excessive noise, undertaken by a suitably qualified acoustic consultant shall be submitted to and approved in writing by, the Local Planning Authority. The scope of the report, including the relevant noise sources to be considered and noise sensitive receptors shall be agreed in advance with the Local Planning Authority. Any works which form part of a mitigation scheme outlined in the noise impact assessment shall be completed prior to any part of the development being first occupied or used, or within an alternative timescale to be agreed with the Local Planning Authority. This requirement can be dispensed with if it is demonstrated and agreed in writing with the Local Planning Authority that no adverse noise impacts will arise for each phase.

REASON – In the interests of residential amenity.

16. Construction and demolition work shall not take place outside the hours of 08:00-18:00 Monday to Friday, 08:00-13:00 Saturday with no working on a Sunday and Bank / Public Holidays without the prior written permission from the Local Planning Authority.

REASON – In the interests of residential amenity.

17. No development shall be carried out unless and until vehicle swept path analysis has been undertaken to support the movement framework for emergency vehicles, refuse vehicles and buses, for the internal network and, where appropriate, in respect of the off-site highway proposals, details of which shall be submitted to, and approved by the Local Planning Authority.

REASON – In the interests of highway safety.

18. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, precise details of car parking and secure cycle parking and storage details shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number,

location and design of the cycle stands and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON- In the interests of highway safety

19. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include dropped kerbs, footways to the development frontage to connect into the surrounding infrastructure, tactile paving, improvements to visibility splays, junctions, roundabout, bus stops traffic calming and signage / road markings. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interest of highway safety.

20. Prior to the commencement of any development on the western section of the application site (to the west of Middleton Back Road) details of the footpath entrance from Chapel Street, including details of the timing of the works to implement the link, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details.

REASON – To achieve satisfactory pedestrian access provision in the interests of connectivity.

21. A Road Safety Audit shall be carried out for all of the works within the public highways and the scope of the Audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless in complete accordance with the approved Audit.

REASON – In the interest of highway safety.

22. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be occupied until a Travel Plan, to help reduce dependency on the use of the private car has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include clear and unambiguous objectives and modal split targets, together with a time-bound programme of implementation, monitoring and regular review and improvement; Thereafter, the development shall not be carried out otherwise than in accordance with the terms of the approved Travel Plan.

REASON - To encourage the reduction of journeys made to and from the development by private motor vehicles by the promotion of more sustainable forms of transport.

23. Prior to the commencement of the development hereby approved, as it affects that part (or phase) of the site to be developed, details of pedestrian links within the site to connect to existing surrounding infrastructure, to

improve the permeability of the site, shall be submitted to, and approved in writing by, the Local Planning Authority.

REASON – To ensure a satisfactory form of development.

24. No development, as it affects that part (or phase) of the site to be developed, shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The scheme shall provide for:

- i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance;
- ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts;
- iii) Post-fieldwork methodologies for assessment and analyses;
- iv) Report content and arrangements for dissemination, and publication proposals;
- v) Archive preparation and deposition with recognised repositories;
- vi) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy;
- vii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works;
- viii) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

REASON – To comply with para 197 and 199 of the NPPF because the site is of archaeological interest

25. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

REASON – To comply with para 199 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

26. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, details of the proposed surface water and foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Such a scheme shall be designed to ensure that all surface water and foul water drainage from the development area shall be directed away from Network Rail's retained land and structures into suitable drainage systems. Thereafter

the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

27. Notwithstanding any details of the proposed boundary treatment submitted as part of the application, details of trespass proof fence to be built adjacent to Network Rail's boundary, shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to the commencement of development, as it affects that part (or phase) of the site to be developed. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

28. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, details of a scheme to prevent vehicular access from the development northwards underneath the railway structure shall be submitted to, and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

29. In the event that external lighting is to be used either during the construction or operational phases of the development, details shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail prior to the commencement of development. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

30. In the event that excavations/piling/buildings are to be located within 10 metres of the railway boundary a method statement shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to any works commencing on site. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

31. Prior to the commencement of the development hereby permitted, as it affects that part (or phase) of the site to be developed, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.

REASON – In the interest of visual and residential amenity.



32. The mitigation measures set out in the Ecological Impact Assessment prepared by Naturally Wild (SHA-17-06 September 2018) shall be implemented in full. In addition, no development shall take place until precise details of a landscaping scheme to mitigate for the loss of habitat on the site and for the provision of bat roosting and bird nesting opportunities on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on site and maintained for the lifetime of the development.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity).

33. No tree or hedgerow removal or works to buildings shall take place within the bird breeding season (March to August inclusive) unless a bird nesting survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.

REASON – In the interest of nesting birds.

34. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, a detailed survey of trees to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council's Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to existing ground levels;
- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment;

REASON – To ensure a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interest of the visual amenities of the area.

35. The retail floorspace shall comprise three self-contained units of 500 square metres gross each, and thereafter no amalgamation to larger units shall take place without the prior written approval of the Local Planning Authority, to whom a planning application must be made.

REASON – To ensure that the proposed retail units meet local needs.

36. The retail units hereby approved shall only be used for A1 (Shops), A2 (Financial and professional services) or A3 (Restaurants and Cafes) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other use without the prior written approval of the Local Planning Authority, to whom a planning application must be made.

REASON – To ensure that the proposed retail units meet local needs and to allow the Local Planning Authority to retain control over the uses within the site in the interests of residential amenity.

37. The use of the retail units hereby permitted shall not commence until details of the arrangements for the storing of waste or refuse have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – In the interest of residential amenity.

38. No development in connection with the retail units hereby approved shall take place until a Servicing Management Plan, which shall limit the size of service vehicles visiting the site and make and providing for the management of the car parking in connection with service vehicles has been submitted to and approved in writing by the Local Planning Authority. Thereafter all vehicle servicing shall take place in accordance with the approved Servicing Management Plan.

REASON – In the interest of highway safety.

39. No external plant, equipment or machinery shall be installed as part of the proposed retail units without the prior written approval of the Local Planning Authority. Where external plant, equipment or machinery is proposed details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed and the proposed locations, and if deemed necessary by the Local Planning Authority, appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the development.

REASON – In the interest of residential amenity.

40. Deliveries to and the collection of waste from the retail units hereby permitted shall only be permitted whilst the premises is open and in any event only between the hours of 07.00 and 19.00 Monday to Saturday and 10.00 and 18.00 on Sundays and Bank Holidays.

REASON – In the interest of residential amenity.

## **INFORMATIVES**

The proposed development must not increase the risk of surface water runoff from the site or cause any increased flood risk to neighbouring sites. Any increase in surface water generated by the proposed development or existing surface water / groundwater issues on the site must be alleviated by the installation of sustainable drainage system within the site.

If the application proposed to discharge surface water into an ordinary watercourse a land drainage consent will be required from the Lead Local Flood Authority (LLFA). A land drainage consent is a separate application that could take up to 8 weeks for completion and no works on the watercourse can proceed until consent has been approved by the LLFA.

The updated guidance states the new allowance for climate change now require both +20% scenario and a +40% scenario. Therefore the new surface water drainage scheme designed within the Flood Risk Assessment / Drainage Strategies require at least three sets of calculations:

1. 1 in 30 year event;
  2. 1 in 100 year event plus 20% climate change;
  3. 1 in 100 year event plus 40% climate change;
- New development drainage systems should be designed to include a 10% uplift to runoff to account for 'urban creep'.
  - Finished floor levels should have a minimum freeboard (distance to flood water level) of 600mm.
  - A sensitivity test against the 40% allowance is required to ensure that the additional runoff is wholly contained within the site and there is no increase in the rate of runoff discharged from the site. It must be demonstrated that there are no implications to people from the increased flood hazard (volume between 30% and 40% allowance). It is crucial that the additional runoff from the 40% is contained within the site and does not contribute to an increased flood risk to people / property / critical infrastructure / third parties elsewhere.
  - If the flows cannot be contained within the site without increasing risk to properties or main infrastructure a 40% allowance must be provided.

The applicant must consider local guidance detailed in the 'Tees Valley Local Standards for Sustainable Drainage'. It is recommended that the applicant contacts the Flood Risk Management Team at an early stage to discuss surface water management requirements and their proposed surface water drainage solution for this proposed development.

The developer should develop their surface water drainage solution by working through the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2010. Namely:

- Soakaway;
- Watercourse
- Sewer.

If sewer is the only option the developer should contact Northumbrian Water to agree allowable discharge rates and points into the public sewer network. This can be done by submitting a pre-development enquiry to Northumbrian Water. Full details can be found at <https://www.nwl.co.uk/developers/predevelopment-enquiries.aspx> or telephone 0191 419 6646.

Please note that the planning permission is not considered implementable until the condition has been discharged. Application can then be made for a new sewer connection under Section 106 of the Water Industry Act 1991.

For information, we can inform you that a public sewer and water main cross the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to our apparatus and therefore we will be contacting the developer direct to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development.

Prior to the commencement of the development the contractor should contact the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406664) to discuss the requirements of a road condition survey covering the existing adopted highway to ensure no further damage is caused to the highway as a result of the construction of the development.

A Road Safety Audit shall be carried for all of the works within the public highway and the scope of the audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless in complete accordance with the approved audit.

The developer is required to submit detailed drawings of the proposed internal highway and off-site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made within the Assistant Director: Highways, Design and Projects (contact Mr S Brannan 01325 406663) to discuss this matter.

The applicant is advised that contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs P McGuckin 01325 406651) to discuss naming and numbering of the development.

An appropriate street lighting scheme and design to cover the new highways and any proposed amendments to the existing lighting should be submitted to and approved in writing by the Local Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M Clarkson 01325 406652) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the Introduction of Traffic Regulation Orders in connection to a 20mph zone and relocated speed limit.

## **Network Rail**

### Railway Bridge DSN/10

The proposed development site sits directly to the south of the railway which includes a public footpath passing under the railway bridge DSN1/10 which would provide pedestrian links to Yarm Road and the nearby amenities in the village. We are concerned that the proposed development may impact on the infrastructure and in particular that it may become a vehicular route providing a short cut to Yarm Road from the site. Given the narrow width of the structure, this may result in vehicle strikes that may impact on operational railway safety. It is also imperative that the development does not impede our ability to inspect and maintain the structure (for which 24/7 access is required).

Further to this, we note that at present the footpath surface at the site is uneven and should improvements to this be proposed as part of this development, this should be discussed and agreed with our Asset Protection Team (details below) prior to any work taking place to ensure that it can be undertaken safely and without impact to operational railway safety and the bridge structure itself.

We ask that all surface and foul water drainage from the development area be directed away from Network Rail's retained land and structures into sustainable drainage systems, the details of which are to be approved by Network Rail before construction starts on site.

Water must not be caused to pond on or near railway land either during or after any construction-related activity.

The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail Boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment.

The construction of soakaways within any lease area is not permitted.

The construction of surface water retention ponds / tanks, SuDs or flow control systems should not take place within 20m of the Network Rail Boundary where these systems are proposed to be below existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

If a Network Rail-owned underline structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or surrounding land.

### Wayleaves and or easements for underline drainage assets

The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures supporting railway live loading.

#### Protection of existing railway drainage assets within a clearance area

There are likely to be existing railway drainage assets in the vicinity of the proposed works. Please proceed with caution. No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent. There must be no interfering with existing drainage assets / systems without Network Rail's written permission. The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site. Please contact Matthew Shelton ([matthew.shelton@networkrail.co.uk](mailto:matthew.shelton@networkrail.co.uk)) for further information and assistance.

#### Fail safe use of crane and plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a 'fail safe' manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway line is electrified, within 3.0m of overhead electrical equipment or supports.

#### Excavations / earthworks

All excavations / earthworks carried out in the vicinity of Network Rail property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary work compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and / or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or Railway land.

#### Security of mutual boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

#### Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements, likely provision should be made

at each turning area / roadway / car parking area adjacent to the railway. This is in accord with the new guidance for road / rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land / roadways.

### Fencing

Because of the nature of the proposed developments, we consider that there will be an increased risk of trespass onto the railway. The developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

### Method Statements / Fail Safe / Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a 'fail safe' manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic, i.e. 'possession' which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations / piling / buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

### OPE

At least 6 weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements / drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

### Demolition

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

### Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway

undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

### Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

### Bridge strikes

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge Strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem particularly if large construction vehicles are to access the site via a route that takes them under the adjacent Yark Road railway bridge which has a 4.1m height restriction. If required there may be a need to fit bridge protection barriers which may be at the developers expense.

### Cranes

With a development of a certain height that may / will require the use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity, etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation. .

### Encroachment

The developer / application must ensure that their proposal, both during construction and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure, or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing onto Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and is a criminal offence. Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### Noise / soundproofing

The developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.



### Trees / shrubs / landscaping

Where trees / shrubs are to be planted adjacent to the railway boundary they should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved and ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below.

### Acceptable

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata Zebrina.

### Not Acceptable

Acer (Aver pseudoplatanus), Aspen – Poplar (Populus), Small-leaved lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italic), Large-leaved Lime (Tilia platyphyllos), Common Lime (Tilia x europea).

A comprehensive list of permitted tree species is available upon request.

### Lighting

Where new lighting is to be erected adjacent to the operational railway, the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

### Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In particular, our access to inspect and maintain structure DSN/10 should remain clear and unrestricted at all times both during and after construction.

### Children's Play areas / Open Spaces / Amenities

Children's play areas, open spaces and amenity areas must be protected by a secure fence along the boundary of one of the following kinds; concrete post and panel, iron railings, steel palisade or such other fence approved by the Local Planning Authority acting in consultation with the railway undertaker to a minimum height of 1.8 metres and the fence should not be able to be climbed.

Network Rail is required to recover all reasonable costs associated with facilitating these works.