



Area Planning Committee (Central and East)

Date Tuesday 8 May 2018
Time 1.00 pm
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 10 March 2018 (Pages 3 - 16)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/18/00298/FPA - Damson House, Dragon Lane, Gilesgate, Durham (Pages 17 - 46)
Demolition of Existing Buildings and Construction of Discount Foodstore (Class A1), Non Food Retail Unit (Class A1) with External Garden Centre, Provision of Associated Access, Customer Car Parking, Landscaping and Associated Works.
 - b) DM/18/00608/FPA - Former Phillips Components Ltd, Belmont Industrial Estate, Durham, DH1 1TH (Pages 47 - 60)
Erection of a three-storey office and training centre (Use Class B1 / D1) with access, car parking, delivery / service bay.
 - c) DM/18/00225/FPA - Land to the north of Hackworth Road, North West Industrial Estate, Peterlee, SR8 2JQ (Pages 61 - 78)
Gas fuelled capacity mechanism embedded generation plant to support the National Grid.
6. Planning Development Management Performance Summary 2017/18 (Pages 79 - 82)
 - (i) Report of the Planning Development Manager.
 - (ii) Presentation by the Planning Team Leader – Central and East.
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
27 April 2018

To: **The Members of the Area Planning Committee (Central and East)**

Councillor P Taylor (Chairman)
Councillor A Laing (Vice-Chairman)

Councillors G Bleasdale, D Brown, J Clark, I Cochrane, K Corrigan,
M Davinson, D Freeman, N Grayson, K Hawley, S Iveson, P Jopling,
R Manchester, J Robinson and O Temple

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber - County Hall, Durham** on **Tuesday 10 April 2018** at **1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors D Brown, J Clark, K Corrigan, D Freeman, K Hawley, S Iveson, I Jewell (substitute for M Davinson), P Jopling, R Manchester, J Maitland (substitute for A Laing) and O Temple

Also Present: Councillors K Shaw and F Tinsley

1 Apologies for Absence

Apologies for absence were received from Councillors G Bleasdale, I Cochrane and N Grayson and A Laing.

2 Substitute Members

Councillor I Jewell substituted for Councillor M Davinson and Councillor J Maitland substituted for Councillor A Laing.

3 Minutes

The minutes of the meeting held on 13 March 2018 were confirmed as a correct record by the Committee and signed by the Chairman.

4 Declarations of Interest

Councillor J Clark declared an interest in Item 5a as a member of the Durham City Housing Group (CDHG) Operations Board. It was noted that she would leave the Chamber and take no part in the discussion or voting thereon.

Councillor J Clark left the meeting at 1.05pm

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

a DM/17/03975/FPA - Land At Matterdale Road, Peterlee

The Principal Planning Officer, Chris Baxter gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for 12 dwellings with associated landscaping and parking and was recommended for approval, subject to conditions and a Section 106 Legal Agreement.

The Principal Planning Officer noted a correction to report, the contribution set out at Paragraph 67 of the report stating £23,310, which should have read the same as set out in the recommendations at page 24, £24,310.

The Committee were informed there had been no objections to the application from statutory or internal consultees, with the Ecology Team being satisfied with the inclusion of a s106 Agreement in relation to reducing the number of access points to Special Protection Areas as identified within the Durham Heritage Coast Partnership's Business Plan 2014/15. The Principal Planning Officer noted there had been no objections from members of the public and that Planning Officers felt the application was acceptable in principle and was in a sustainable location. Members were informed that the area was not allocated as open space via policy. The Principal Planning Officer noted that it was felt that the application would not impact adversely on visual and residential amenity and the Highways Section noted the application was acceptable.

The Chairman noted the Committee Services Officer would read out a statement from the Local Member, Councillor A Laing, as she was unable to attend the meeting.

"I am fully in support of the application. It involves the redevelopment of a former housing site that is near to the town centre and a good range of facilities and services for the residents. It is a good quality scheme providing some welcome affordable housing, and will be of benefit to the area".

The Chairman asked Mr P Glover, Agent for the applicant to speak in support of the application.

Mr P Glover noted the site had previously been a residential site and was in a very sustainable location. He added that there was much need for family and affordable homes in this area. Mr P Glover noted the contemporary and sympathetic design followed the topography of the site and was in the vernacular of the area. He asked Members of the Committee to follow the Planning Officer's recommendation and approve the application.

The Chairman asked Members of the Committee for their comments and questions on the application.

Councillor I Jewell noted that the scheme seemed to be very straightforward, with no objections from the statutory or internal bodies, with no objections from members of the public, and with the Local Member being in support of the application. Accordingly, Councillor I Jewell moved that the application be approved as per the Officer's report.

Councillor O Temple asked as regards parking allowance per dwelling and the density of properties on the site.

Councillor J Maitland echoed the comments made in Councillor A Laing's statement and noted the development would much improve the area. Councillor J Maitland seconded the proposal made by Councillor I Jewell.

The Principal Planning Officer explained there were 2 car parking spaces per property and 6 visitor car parking spaces in addition. He noted he did not have the density figure to hand and suggested the Agent for the Applicant may have the figure. Mr P Glover noted the density was approximately 30 properties per hectare.

RESOLVED

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement and the conditions detailed in the Officer's report to the Committee.

Councillor J Clark entered the meeting at 1.20pm

b DM/17/03834/FPA - 16 Tempest Road, Seaham, SR7 7AY

The Planning Officer, Susan Hyde, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for conversion of C3 4 bed dwelling to C1 seven bedroom aparthotel including demolition of porch and alteration of windows and was recommended for approval, subject to conditions and the completion of a s106 legal agreement, as set out within the report.

The Planning Officer noted the application site was approximately 100 metres from the coast and explained that the application site was next to Londonderry Court, a Grade II* Listed Building and was within the Seaham Conservation Area. Members noted there was a range of shops and facilities located nearby, within walking distance. Councillors were asked to note the building was attached to a neighbouring property, and that the old brown uPVC windows as shown in the presentation were in the process of being replaced with new white sash style windows with Georgian features, in keeping with the windows in the area.

The Planning Officer referred to elevations for the property, noting no alterations to the rear of the property and no extensions. Members noted the internal layout and the proposed changes as set out on the presentation slides. It was highlighted that the stairwell ran along the boundary with the attached property.

In terms of representations, it was noted that initial concerns from the Highways Section had been resolved, with a supporting statement having been supplied by the applicant in terms of parking. Members noted Environmental Health had commented in terms of impact on residential amenity for the attached building and Londonderry Court. It was explained this was resolved through a management plan and sound insulation. The Planning Officer noted that Ecology colleagues had noted a requirement in terms of a financial contribution towards the management of the coast in accordance with National Habitat Regulations.

The Planning Officer explained that there had been 10 letters of objection from members of the public and a petition, with a summary of the reasons being set out in the report, including: impact on residential amenity; car parking within the curtilage of the application site; house prices; and works had commenced prior to permission being granted. The Planning Officer noted that the applicant had been advised not to commence any works prior to the application being determined by Committee.

The Planning Officer added that there had been 19 letters of support for the application, noting that the proposal was for much needed accommodation of this type; that there was adequate parking in the nearby surrounding area; and that the works would help to improve the building.

Councillor F Tinsley entered the meeting at 1.25pm

Members were referred to Condition 3 within the report recommendation, noting a Management Plan in terms of the building and providing contact details for local residents should they be an issue at the property.

The Planning Officer concluded by noting that the application was recommended for approval, subject to a s106 Agreement and conditions.

The Chairman thanked the Officer for her report and noted Councillor K Shaw, a Local Member wished to speak in relation to the application.

Councillor K Shaw noted he had been asked to raise concerns on behalf of local residents. He explained that Seaham was a town that was growing and thriving, a place people wanted to visit and agreed there was a need for places for visitors to stay overnight. He added that residents did not think this application was the solution, with concerns from residents in terms of impact upon residential amenity. Councillor K Shaw noted Paragraph 14 of the National Planning Policy Framework (NPPF) stated a presumption for sustainable development unless there were material considerations why development should not take place.

Councillor K Shaw noted residents' concerns included: overlooking from the property; the adequacy of the parking; noise disturbance; that Londonderry Court, sheltered accommodation, was within touching distance of the proposed development.

Councillor K Shaw noted residents' concerns in terms of the building being adjacent to elderly residents, noting guests to enter the property by 11.00pm. He added there did not appear to be regard in terms of the impact on the adjoining neighbouring property, with that property being part of the original building. Councillor K Shaw added that there would be noise during development, impacting on the neighbouring property and, once complete, the neighbouring property would effectively be permanently living in the wing of a guest house. He added that Environmental Health had not objected, however, he was not aware on any surveys having been conducted.

Councillor K Shaw explained residents felt there would be a loss of privacy to adjacent properties and that there were also issues in terms of parking capacity and noise levels. He added that it had been suggested that there was nearby parking available 24 hours, and that traffic surveys would have had a better understanding if they had been carried out on a pleasant day at the weekend in terms of the parking available and traffic levels. He noted that a conservative estimate of the parking required was around 8 spaces, and that paragraph 57 of the Officer's report noted in relation to car parking: "Nevertheless there remains a residual adverse amenity impact in this regard".

The Chairman thanked Councillor K Shaw and asked Mr D Irwing, Applicant to speak in support of the application.

Mr D Irwing noted he would address points raised by the Local Member, who had been invited on several occasions to discuss issues raised by residents. Mr D Irwing noted that parking was available 24 hours and that the development addressed a call from the Seaham Destination Plan in terms of this type of accommodation. Mr D Irwing explained the background in terms of his links to the property and the town and noted upon staying in the area the only accommodation was at the nearby Seaham Hall or Seaton Lane Inn, a distance away.

Mr D Irwing added that the parking survey had been moved to early morning, and late afternoon times and of the 50 spaces available nearby the most that had been occupied was 5. He noted that the street was a wider than average road and that while some residents had noted concerns relating to the development, there was also support from other local residents and businesses. He added there was also further support for this type of accommodation via local social media pages, citing 91% support.

Mr D Irwing noted that the development of this type of accommodation would mean there would be a little more coming and going to the property, however, if the town was to grow it would need this type of accommodation.

The Chairman asked the Planning Officer to respond to the points raised.

The Planning Officer referred to site plan to highlight the distance between the development and Londonderry Court, and also showed proposed internal layouts, to demonstrate that in terms of overlooking, the situation would be similar to that existing currently. She highlighted that there were no proposed extensions, the works to be within the current building.

In relation to noise and additional comings and goings, the Planning Officer noted that the change of use meant there was potential for more, with the entrance to the property being along the side of the property. She reiterated that the management plan would ensure entry to the property by 11.00pm and there would be contact details should residents have any concerns. The Planning Officer added that there would be sound insulation internally and the layout had been designed to try to reduce the amount of the rooms adjacent to the neighbouring property, with a corridor offering additional protection.

The Planning Officer noted in relation to car parking that the Highways Section had initially raised concerns, however, after consideration of the information submitted had noted no objections. The Highways Development Manager, John McGargill noted that Tempest Road was 9 metres wide and if vehicles were parked both sides vehicles could still pass. He added that the survey carried out had shown that there was spaces available along Tempest Road and at nearby public car parks. The Highways Development Manager explained that similar applications for Durham City had been approved. He added that in the case of 7 vehicles being associated with the development, this would equate to 5 vehicles in competition with others for spaces and that this would not be sufficient to sustain a reason for refusal.

The Chairman thanked the Officer and asked Members of the Committee for their comments and questions.

Councillor J Clark noted the background information in relation to the development, and wondered if there had been a period of tranquillity prior to development with the property being empty and asked, if the application was approved, would guests be directed to where the car parking would be provided or available. The Chairman asked if the applicant could provide any further information. Mr D Irwing replied that the property had been empty for 12 months and confirmed that guests would be e-mailed with instructions in relation to gaining entry and times, as well as parking information and a polite notice as regards respecting other nearby residents.

Councillor J Maitland asked whether the aparthotel would be for holiday seasons or all year round. The Planning Officer noted it was all year round.

Councillor I Jewell asked as regards a live-in receptionist or whether keys would be collected. He noted that if the property was not successful as a hotel it would likely become a bedsit or similar. The Planning Officer noted the application proposed that there would be no one on site, keys would be collected and that the management plan would apply, with a contact being available to guests and neighbouring residents. She added that any move to a different type of accommodation would need to be via a separate planning application.

Councillor O Temple noted he understood the need for accommodation within the destination plan, and added that with no management on site, the management plan itself would be very important. He asked whether it was possible to have a time limit on an occupancy, if there were prolonged periods without lets, for example in winter, and then longer terms lets were then made, he felt this would not be the same purpose as enabling tourism.

The Solicitor – Planning and Development, Neil Carter spoke to the Planning Officer and advised that the Local Planning Authority could not reasonably impose restrictions in terms of the length of occupancy. He added that this could be included within the management plan, should the applicant volunteer to do so, however the LPA could not insist upon its inclusion.

Councillor P Jopling noted that while visiting the site, it was clear some works were underway on site. The Chairman noted applicants were always informed that they carried out any works prior to permission at their own risk.

Councillor J Clark moved that the application be approved; she was seconded by Councillor I Jewell.

RESOLVED

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement and the conditions detailed in the Officer's report to the Committee.

c DM/18/00328/FPA - 36 The Hallgarth, Durham, DH1 3BJ

The Solicitor – Planning and Development noted that at the start of the meeting, the Applicant's Agent, Mr D Leybourne had been given sight of e-mails in objection that had already been circulated to Committee Members so that he may comment when addressing the Committee. Mr Legbourne confirmed that he had read them and did want to comment.

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a new house in the garden of 36 The Hallgarth and was recommended for approval, subject to conditions as set out within the report.

The Planning Officer noted that the application site was within the Durham City Conservation Area, had a number of listed buildings nearby and was 450 metres east of the Durham Cathedral and Castle World Heritage Site (WHS).

The Committee were informed that the proposed property would be set back 1.5 metres from the line of houses and Members noted proposed elevations. The Planning Officer noted the design was in keeping with the properties in the area in terms of material and scale. It was added that the upstairs bathroom window would be required to be obscured glazing in perpetuity.

The Planning Officer noted no concerns from Northumbrian Water Limited and no objections from the Highways Section, highlighting no parking permits would be provided for the new property.

It was noted that the Design and Conservation Section had noted that the application would have a neutral impact in relation to heritage.

The Committee were informed that the Tree Section had noted none of the trees warranted a Tree Preservation Order (TPO) and Ecology and Contamination Land Officers had noted no objections. The Planning Officer noted the Archaeology Section had noted a conditions in terms of a watching brief and investigation works as set out in the report.

The Planning Officer noted a number of public responses had been received, with the main concerns raised being: development would constitute overdevelopment, leading to problems with waste disposal, noise and parking; be detrimental to the amenity and area; and concerns the property would ultimately be converted to a House of Multiple Occupation (HMO).

The Planning Officer noted that the proposal were acceptable in policy terms and was in a sustainable location within the City. It was reiterated that the application had been deemed neutral in terms of impact upon the Conservation Area and heritage assets. The Planning Officer noted that the application was not deemed to have significant detrimental impact upon residential amenity and was recommended for approval.

The Chairman thanked the Planning Officer and asked the Local Member, and Committee Member, Councillor D Freeman speak in relation to the application.

Councillor D Freeman noted Members would have had sight of e-mails from members of the public in objection to the application, sent to Councillor D Freeman. He added that this had not compromised his decision making, he had not yet made up his mind in terms of the application. He explained that he had asked that the application be brought to Committee as he had concerns in terms of the impact of development within a garden and a fear of the property becoming a HMO, notwithstanding paragraph 74 of the report which stated a change of use application would be required. Councillor D Freeman asked how the property would be monitored in terms of HMO status and some residents had noted their doubts in terms of the merits of the property as a family home, having a reduced garden area and no parking. Councillor D Freeman noted the report had stated no requirement for parking spaces, however, asked the Committee to think of a family home without any parking provision, and no parking permits being available.

Councillor D Freeman noted that he felt that building a property within an existing garden seemed to be contrary to Policy H2 of the saved City of Durham (COD) Local Plan. He noted that the Officer had spoken to the fact the COD Local Plan was out-of-date, however, he noted that some references to saved plans were made in support of a recommendation when it suited. He noted that the distances between properties were nearer than permitted and therefore the application was contrary to Policy Q8. He added an issue relating to a covenant had been raised, though he understood this matter fell outside of the remit of the Committee, he asked for clarification as to the Committee's position if the covenant had been put in place by the former City of Durham Council.

Councillor D Freeman concluded by noting that Paragraph 77 of the report noted there was a need for family homes, however, there had not been any mention within the report of the large development at the former school site within 100 metres and therefore he felt that a single property in the context of the larger development was not a strong argument.

The Chairman thanked Councillor D Freeman and noted that Local Plans were used where not in conflict with the NPPF. He asked Ms D Jones to speak in objection to the application.

Ms D Jones noted she was speaking in objection on behalf of at least 8 neighbours that had been unable to attend the Committee meeting. She added the local community wanted 36 The Hallgarth to remain as a family home, only viable if the large garden was retained, and that the proposals represented overdevelopment. Ms D Jones noted Policy H13 protected against significant adverse effect on the character or appearance, or the amenities of residents within an area. She referred to Paragraph 80 of the report that accepted that there would be some adverse impact on neighbouring residents, however, set out that Officer did not feel this outweighed the benefits of the proposal. Ms D Jones noted that there was significant and demonstrable impact on neighbours in terms of loss of privacy, loss of green space and the impact upon parking.

Ms D Jones noted that the Authority could demonstrate a 5 year housing supply and 75 properties were being built on the former Whinney Hill School site nearby. She added that the Officer's report noted that separation distances were less than policy and that there would be some overlooking by the proposed development. Ms D Jones noted that the loss of green space would have an impact on local wildlife.

Ms D Jones explained that parking was a huge issue in the area, noting no permits would be issued for the new property and that the garages nearby had been transferred to the County Durham Housing Group and there was a waiting list. She noted given all of those facts it would be difficult for the property to be used as a family home and the fear of residents was that the new property and 36 The Hallgarth would become HMOs with there being around 10 HMO properties already in the area.

Ms D Jones concluded by noting that Paragraph 74 of the report did not convince residents that there would be enforcement taken in terms of a HMO and therefore she asked that Members would consider the objections raised by residents and refuse the application.

The Chairman thanked Ms D Jones and asked Mr D Leybourne to speak in support of the application.

Mr D Leybourne noted that pre-application enquiries in relation to the development had been made with the Planning Department and initial objections in relation to the impact on the view of the Cathedral had been taken on board with the position of the new property being set back 1.5 metres. He added that, as the Planning Officer had explained, any use as a HMO would require a separate change of use application and would not be supported with an Article 4 Direction in place. Mr D Leybourne noted that the proposed property's bedroom would not overlook Hallgarth Farm. He added that the location was sustainable, being within the City and the Highways Section had not objected to the application. He noted an application to rent one of the garages had been submitted with many of the garages in the area being used for storage rather than for vehicles. He added the Officer's recommendation was for approval, considering the objections raised, with the issues having been addressed. He noted in terms of overdevelopment, Officers felt this was not the case. He added in terms of overlooking, the gable window had been relocated. Mr D Leybourne added that in terms of garden space and the Cathedral view, this had been addressed by the setting back of the property. He noted that there had been no Highways objections and that any use as HMO would require a change of use application.

In response to the e-mails that had been circulated, Mr D Leybourne noted that it had been widely assumed the application was for 2 HMOs, and that was not the case and clearly that would be subject to applications in terms of change of use.

The Chairman thanked Mr Leybourne and asked the Principal Planning Officer, to comment on the issues raised. The Principal Planning Officer noted that the application before Members at Committee was for C3 residential use, not for a HMO. He added that should the property be used as an HMO, then if residents were to alert Planning, there would be grounds for enforcement action. The Principal Planning Officer noted that there would clearly be a reduction in garden space, however, it was felt the remaining garden space would be sufficient for the properties. In reference to the application being contrary to Policy H2, the Principal Planning Officer noted that the policy did direct to brownfield sites, however, the site was in a highly sustainable location and therefore acceptable in planning terms.

The Principal Planning Officer noted in respect of privacy concerns that the separation distance in question, being less than the policy, was to Hallgarth Farm House and was 14 metres, less than the 21 metres per policy. He explained that it met distances in terms of habitable windows, and the only one being the first floor bathroom, which would have obscure glazing fitted. He added that at the ground floor trees and the boundary treatment would break up the views. He noted that all the separation distances to Hallgarth Street were over 21 metres except one which was 20.5 metres.

The Principal Planning Officer noted that given the angle and level differences, it was not sufficient to justify a refusal reason over 0.5 metres. In relation to loss of important green space in the area, the land was currently private garden and therefore could not be classified as public green space that would be lost to the general public.

The Highways Services Manager noted that the application site was in a very sustainable location in terms of bus and rail travel, with a range of amenities within walking distance. He noted there was a car share scheme, "Co-wheels", operating in the City. He concluded by noting the application was NPPF Part 4 compliant and that he could not recommend refusal on the grounds of parking.

The Solicitor – Planning and Development noted that the outstanding issue of a covenant was not a material planning consideration, even if it had been imposed by the former City of Durham Council.

The Chairman thanked the Officers for their responses and asked Members of the Committee for their comments and questions.

Councillor O Temple noted that on the site visit he had been struck by how difficult it had been for the bus driver to get out having driven down the cul-de-sac. He added that even for a time during the day, there was a large number of cars parked along the road leading to the application site. In terms of overdevelopment, he noted a lack of parking, the site being within an existing garden, and the separation distances being less than the policy requirement, as stated by the Officer. He added he was minded not to vote in favour, in terms of the impact on residential amenity. Councillor O Temple noted the site was close to the Cathedral and policies H2 and H13 had already been quoted previously as those the application would be in breach of. He noted that Design and Conservation had noted a neutral impact from the application, adding this was close to being adverse. Councillor O Temple noted he felt it was a cumulative impact of a number of small details, and that if someone more experienced in policy were to recommend refusal he would support their motion.

Councillor D Brown noted two omissions from the site plan, that 31 The Hallgarth has an extension right up to a garage, and there was a new build property opposite to the site, compounding car parking and access issues.

The Principal Planning Officer noted that the separation distance would be 20.5 metres between the extension and Hallgath Street and Planners felt that in this case it was acceptable. He reiterated that the 14m to Hallgarth Farm House was acceptable given the obscure glazing to be used.

Councillor I Jewell explained that he was struggling to see some of the points raised in objection, noting the only loss of green space was to 36 The Hallgarth, and this was not public space, rather a private garden. He added that it was likely any person purchasing the property would be aware of the garden size and understand the situation in terms of car parking, with some people not owning a car. He noted he was not fully convinced the objections were valid.

Councillor I Jewell moved that the application be approved; he was seconded by Councillor J Maitland.

RESOLVED

That the application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee.

d DM/18/00362/FPA - 1 Witton Grove, Framwellgate Moor, Durham, DH1 5AB

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use of land to side of dwelling to private garden area including erection of single-storey extension to side and rear of dwelling and detached garage and shed within extended garden area and was recommended for approval, subject to conditions as set out within the report.

The Planning Officer noted the application site itself was not an area of high landscape value or greenbelt land, though there was such an area opposite the site. Members noted that the proposals were for a wraparound extension and a rear garage with driveway. It was added the extended garden area was set back from the boundary as the area adjacent to the road was adopted highways.

The Planning Officer noted no objections from the statutory or internal consultees, with one objection from the neighbouring property being in relation to fencing being placed on top of an existing wall, though it was explained that this would not be the case. She added the Local Member had been in objection when initially it was thought the application encroached into the greenbelt, however, it was reiterated the application was not within the greenbelt area.

The Planning Officer noted the application was recommended for approval, subject to an update to Condition 2 within the report to reflect and amended plan containing detail as regards the garage door and updates in terms of a raft being upgraded to piles and an amended Condition 4 having been agreed with the applicant.

The Chairman thanked the Planning Officer and asked the Solicitor – Planning and Development to provide an update to the Committee.

The Solicitor – Planning and Development noted that initially the application had been referred to Committee by a Local Member, Councillor M Wilkes. He added that he had been in correspondence with Councillor M Wilkes late yesterday and prior to the Committee meeting today in terms of the Local Member feeling the reasons for calling the application in to Committee were no longer sufficient to sustain a refusal reason.

The Solicitor – Planning and Development noted that his advice had been that Officers had correctly accepted referral to Committee and once accepted it was not possible for the matter to be considered under delegated authority. He added there was no mechanism for withdrawal of a referral once accepted and therefore the application was properly before Members for consideration.

The Chairman asked Members of the Committee for their comments and questions.

Councillor J Clark noted there was no mention of a Construction Management Plan (CMP) within the report, with the close proximity to the roundabout and the need for construction vehicles to turn. The Principal Planning Officer noted that for household scale development a CMP would not normally be requested, though if Members were minded and felt it would be useful the points raised could be included. Councillor J Clark noted she felt that this would be useful for to allay neighbours' concerns.

Councillor P Jopling moved the recommendation, subject to the inclusion of a condition relating to a CMP as mentioned by Councillor J Clark. Councillor O Temple seconded the proposal.

RESOLVED

That the application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee and an additional condition relating to a Construction Management Plan.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00298/FPA
FULL APPLICATION DESCRIPTION:	Demolition of Existing Buildings and Construction of Discount Foodstore (Class A1), Non Food Retail Unit (Class A1) with External Garden Centre, Provision of Associated Access, Customer Car Parking, Landscaping and Associated Works.
NAME OF APPLICANT:	Dragon Lane LLP
ADDRESS:	Damson House, Dragon Lane, Gilesgate, Durham
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Graham Blakey, Senior Planning Officer, 03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application site measures 1.97ha in area and bounded by Rennys Lane to the north, Damson Way to the south, Dragonville Industrial Estate to the east and Dragon Land to the west. The land is occupied by large former industrial buildings and warehouses, some of which have fallen in to disrepair and other are being occupied by low level businesses or other commercial development (i.e. furniture shop).
2. Terrace housing (Teasdale Terrace) and a public house, front on to Dragon Lane and Rennys Lane adjoin the site, with detached housing adjoining the site to Rennys Lane. Beyond Dragon Lane to the west lies the Dragonville Retail Park and Tesco superstore. Vehicular access is currently taken from Rennys Lane, Dragon Lane and Damson Way to the various buildings on the site, with a signalised junction at Damson Way / Dragon Lane / Tesco.
3. There are no statutory or locally designated heritage assets, landscapes or ecological sites that would be affected by the proposals. No recorded public rights of way are contained within or adjacent to the application site, but National Cycle Network Route 14 runs up Dragon Lane and along Rennys Lane adjoining the site.

Proposal

4. Planning permission is sought for the erection of a retail food store that would provide 2,125sq m gross of internal floor space ("Unit A") and a non-food retail store that would provide 4,923 sq m gross with 465 external garden area, "Unit B" a total of 7,513 sq m gross. The larger unit would be located to the northern part of the site to the rear of Teasdale Terrace and Rennys Lane, with the food retail unit located to the eastern part of the site between Damson Way and MKM Building Supplies (Rennys Lane). 272 car parking spaces are proposed and would be located between the stores and Dragon Lane / Damson Way, with landscaping proposed to the western and southern boundaries.

5. Buildings would, in terms of elevation, appear rectangular in shape with shallow pitched roofs. Walls would comprise horizontal colour coated flat composite panels above facing brick, with composite sheet panel roof incorporating roof lights. The buildings vary in terms of detail to reflect the proposed end users. Unit A, the discount food retail store would be occupied by Lidl and the store focuses its main entrance to the south west corner of the building overlooking the car park and main vehicular entrance to the site, and glazed elevation to Damson Way. Unit B, proposed to be occupied by The Range, features a central main access with glazing to the front (southern elevation) of the store, with feature cladding to either side of the entrance and south east corner.
6. The proposed development would take access from Damson Way opposite and existing access to the 'Mono Containers' site to the south, allowing further routes via Dragon Lane and Damson Way to the A181, Sherburn Road. Vehicle loading and servicing areas are split for the two units, Unit A being access separately from Damson Way at the extreme east boundary, with Unit B access from Rennys Lane between the residential properties of 4 and 5 Rennys Lane. This is a historic access to the former warehouse use at the site. Pedestrian access is proposed from the entrance to Unit A the short distance to Damson Way, as well as across the central area of the car park from Unit A to Dragon Lane and from the south east corner of Unit B to direct to Dragon Lane.
7. In order to facilitate the development, demolition of numbers 14-19 Teasdale Terrace is proposed (all currently rented to their respective tenants by the land owner partner to the whole development site). This would allow for the creation of 10 residential car parking spaces for the remainder of the terrace which would be access direct from Dragon Lane and would be separate from the main car park. No through access would be proposed to the rear of Teasdale Terrace up to Rennys Lane.
8. This application is being reported to the Central and East Planning Committee as it is classed as a major development.

PLANNING HISTORY

RELEVANT PLANNING HISTORY

9. In 2003 outline planning permission was granted Class A1 non-food retailing by the Secretary of State following a public inquiry as a result of a Government 'call-in' (4/01/00146/OUT). The permission is subject to conditions controlling the level of Class A1 retail floorspace (6039 sq m gross), limited the range of goods that can be sold to those a "bulky" nature, and restricting the minimum size of individual retail units (not less than 750 sq m gross).
10. In 2007 planning permission was granted for the remaining reserved matters relative to the outline planning permission (4/06/01158/RM).
11. In 2010 conditions associated with outline and reserved matters planning permissions were discharged and development was formally commenced.
12. In 2013 planning permission was granted to vary the condition restricting minimum unit size, reducing the minimum unit size from 750 sq m (gross) to 400 sq m (gross).

PLANNING POLICY

NATIONAL POLICY

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
14. In accordance with Paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below. The following elements of the NPPF are considered relevant to this proposal;
15. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *Part 2 - Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
17. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
18. *Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
19. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
20. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

21. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; 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; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
22. *Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
23. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: ensuring the vitality of town centres; retail development and highways impacts; determining a planning application; flood risk; health and well-being; natural environment; noise; planning obligations; travel plans, transport assessments and statements and use of planning conditions.

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

24. *Policy E16 – Nature Conservation – the Natural Environment.* Is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
25. *Policy S1A – Retail Hierarchy* – seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
26. *Policy S8 – Retail Warehousing Outlets* – states that new retail warehouse development will be permitted on designated sites, providing, amongst other things, that there is demonstrable need, a sequential test has been carried out, and the vitality and viability of existing centres would not be adversely affected.
27. *Policy S9B – Major Out of Centre Proposals* – states that where there is an identified need for large-scale retail and leisure development that cannot be met through existing allocations, preference should be for sites within the city centre, followed by edge of city centre locations, district centres locations, local shopping centre locations and only when the development cannot be accommodated in these locations, then elsewhere within the built up area of Durham City provided certain criteria are met.

28. *Policy EMP8.a – General Industrial Sites* – designates general industrial sites, and identifies the site of Dragonville Industrial Estate as being suitable for B1, B2 and B8 development.
29. *Policy H13 – Residential Areas- Impact upon Character and Amenity.* Seeks to protect the character and levels of residential amenity those living in such areas can reasonably expect to enjoy.
30. *Policy Q1 – General Principles Designing for People.* Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
31. *Policy Q2 – General Principles Designing for Accessibility.* The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
32. *Policy Q3 – External Parking Areas.* Requires that external parking areas provided as part of a new development should be landscaped, adequately surfaced, demarcated, lit and signed. Large surface car parks should be sub-divided into small units. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
33. *Policy Q4 - Pedestrian Areas.* Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
34. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
35. *Policy Q15 – Art in Design.* Seeks to encourage the provision of artistic elements in the design and layout of development.
36. *Policy T1 – Transport – General* – states that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.
37. *Policy T10 – General Provision.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
38. *Policy T19 – Cycle Routes* – encourages the provision of facilities for parking cycles in the city centre and other locations which are secure, protected from the weather and clearly signed.
39. *Policy T20 - Cycle Facilities.* Seeks to encourage appropriately located, secure parking provision for cyclists
40. *Policy CC1 – Vitality and Viability* – states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses, and sustaining the city centre shopping centre in accordance with other retail policies.

41. *Policy U5 – Pollution Prevention.* States that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land.
42. *Policy U8a – Disposal of Foul and Surface Water* – requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
43. *Policy U10 – Natural Flood Plains.* Proposals shall not be permitted in flood risk areas or where development may increase the risk of flooding elsewhere unless it can be demonstrated by way of sequential test that there is no alternative option available at lower risk, there will be no unacceptable risk of flooding, there will be no unacceptable increase in risk of flooding elsewhere and appropriate mitigation measures can be put in place to minimise the risk of flooding which can be controlled by planning condition.
44. *Policy U11 – Development on Contaminated Land* – sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (City of Durham Local Plan)

RELEVANT EMERGING POLICY:

45. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

46. Belmont Parish Council have also made representation upon the application. They do not object to the principle of the application, acknowledging the regeneration benefits of the proposals, however they raise the following points in regard to the impacts of the development.

Highways

- Traffic generation during construction and the retail operation of the units are a concern, as access roads to the site are already extremely busy.

- Access to the A1 should be strictly controlled at all times to avoid use of inappropriate and unsuitable roads.
- Use of, and access via, A181 (Sherburn Road) / Damson Way junction would see future traffic increase and have effects upon Booths Bungalows and Coronation Terrace.
- HGV use of Dragon Lane / Damson Way is a major concern and their effective traffic management is a prime issue, including emissions.

Parking and fencing

- Increased on-street parking in front of Teasdale Terrace by future customers of these stores and Tesco.
- Concerns over how 'residents parking' to south of Teasdale Terrace would be controlled for their sole use. Similar option provided for Providence Row to north on Dragon Lane.
- Concur with Police Architectural Liaison Officer comments to supplement knee rail fencing with defensive planting to preserve desire lines.
- Position of cycle store to Dragon Lane exit should also be revisited.

Others

- Concerns over the impact of proposed uses upon nearby residents of Teasdale Terrace and Renny's Lane. Conditions regarding hours of working and noise levels of refrigeration and air conditioning plant should be imposed and enforced.
- A need to include a Dust Action Management Plan is paramount to mediate against nuisance dust and air quality pollutants.

47. *Highway Authority* – Raises concerns over the impact upon the surrounding highways network. They advise that the submitted Transport Assessment methodology is considered acceptable, however the wider impacts upon the highway network beyond Dragon Lane have not been fully addressed. Junctions at Dragon Lane/ Sunderland Road; Dragon Lane A181; Damson Way A181; Durham City Retail Park roundabout and the Sunderland Road / Broomside Lane would experience impacts which would likely saturate the network without any mitigation. This is in addition to the Dragon Lane / Tesco junction which modelling demonstrates could not accommodate this development without mitigation.
48. The Highways Authority have identified a scheme for road and junction improvements at Rennys Lane to Damson Way / A181 (Sherburn Road) – 'Retail Park Link Road'. This would be designed to relieve pressure on Dragon Lane and its junctions north and south. Funding for the scheme is being identified and a contribution from the Kerry Foods development to the north of Rennys Lane has been secured through planning obligation. Therefore a contribution towards the provision of the Retail Park Link Road would be required in order to mitigate the impacts of the proposed development from a highways perspective.
49. *Drainage and Coastal Protection* – Raises an objection. The proposed development would be required to meet a greenfield run-off rate of 9 litres per second in accordance with the 'QBAR Rural run-off rate'. The proposed development only achieves a run-off rate of 51.9 litres per second and is open to further opportunity to incorporate Prevention, Source Control and Site Control measures in accordance with Councils SuDs Adoption Guide 2016.

50. *Northumbrian Water* – Raise no objection subject to the development being carried out in accordance with the submitted Flood Risk Assessment and a condition restricting flow rates via the proposed sewer connections.

INTERNAL CONSULTEE RESPONSES:

51. *Spatial Policy* – the requirements of the sequential assessment have been met by the applicant. The site is an out of centre site and whilst other in centre and edge of centre sites exist there are logical reasons as to why they can be discounted. The applicants have also provided an impact assessment of the proposed store which concludes that the proposal would not have a significant adverse impact on the vitality and viability of nearby centres and also on any investment. The conclusions of this assessment are again accepted. It is also worth noting the significant regeneration benefits that this proposal can bring in terms of investment and job creation.
52. *Design and Conservation* – Raise no objection. Overall the scheme is of a contemporary appearance for a development of this nature and improves the site over the current situation. Landscaping proposed to frontage of site should be improved to provide a better frontage to the site.
53. *Environment, Health & Consumer Protection (Air Quality)* – Advise that the proposed development would lead to increase traffic flows through the Air Quality Management Area (AQMA) to the Dragon Lane / Sunderland Road junction without the provision of the Retail Park Relief Road at the operational phase. The provision of the relief road would accommodate traffic from the proposed development as well as affecting baseline traffic flows currently through the AQMA. At the construction phase, the development would see HGV vehicle movements to and from the site, which would not be considered to result in an impact upon air quality. Suitable measures to control dust emissions from the site should be included within an overall construction management strategy.
54. *Environment, Health & Consumer Protection (Land Contamination)* – Advise that due to the fact that this development constitutes a change of use to a more sensitive receptor and due to the fact that the land was previously a bus depot, a contaminated land condition should apply. The submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations.
55. *Environment, Health & Consumer Protection (Noise Action Team)* – Raise no objections advising the submitted noise impact assessment is considered sound. The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. Officers are satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance. Impacts from external plant and machinery during the operational phase of the development should be controlled, together with the amount, location and intensity of external lighting.
56. *Landscape* – Raise no objections. Landscaping to the Dragon Lane / Damson Way roadside frontages have been improved to sufficiently.
57. *Ecology* – No ecology issues are raised. It is noted that the habitats on site are relatively low quality and the urban nature of the site (surrounded by development) and the mitigations proposed within the Preliminary Ecological Appraisal should be conditioned for delivery.

58. *Sustainable Travel* – Raise no objections. National Cycle Network (NCN) Route 14 runs north on Dragon Land from A181 to Rennys Lane turning east towards Belmont. The route should be protected and upgraded where possible.
59. *Access & Rights of Way* – Officer note that there are no registered public rights of way within or abutting the development site. Furthermore the proposed development appears to offer little scope for improvements to the wider public rights of way network. Officers fully concur with comments submitted by the Sustainable Travel Officer concerning improvements to Renny's Lane, which is a locally important traffic free route with direct links to residential areas in Belmont and Sherburn.
60. *Travel Planning* – Raise no objections in principle, however officers advise that the submitted travel plan requires refinement.
61. *Targeted Training and Recruitment* – states an aspirational target of 10% of any labour requirement to be offered as new employment opportunities or training. It is therefore requested that any planning permission be conditional upon collaboration with the Council's Employability Team to source suitable candidates.

PUBLIC RESPONSES:

62. The application has been advertised by means of individual notification letters, site notice and press notice. 8 objections have been received and their comments are summarised below.

Principle

- Existing sites have not been developed yet in the area (Kerrys Food Site, Mono Containers site) and highlight the lack of need.
- Area of this site is designated as Dragonville Industrial Estate and not a retail park as is becoming the case. This removes the opportunity for small to medium manufacturing businesses to occupy these sites.
- Demolition of 6 dwellings to Teasdale Terrace to create car parking does not represent sustainable development and is unnecessary.

Highways

- Volume of traffic along Damson Way towards A181 (Coronation Terrace / Booth's Buildings). Damson Way used as a 'rat run' to avoid traffic lights at A181 / Dragon Lane junction and includes several HGVs. The junction at Coronation Terrace / Booths Buildings is inadequate for the current situation and would be made worse by the development.
- Ownership issue over part of Damson Way on the A181, previous investigations by Faerch Plast had highlighted this as an issue in the past. Therefore not adopted highway.
- Increase in traffic along Damson Way would have a significant adverse impact upon the residents of the Damson Way / A181 junction area. Rat running would be come much worse from an already high baseline that is problematic.

Others

- New stores will lead to increased theft and drinking disorder in the area that is already at high levels.
- Too much competition for local, smaller retail outlets which would suffer as a result of this development. Staff will lose jobs.

63. City of Durham Trust object to the assertion that a “discount foodstore” would have a “healthy” effect upon the city centre. The loss of six houses is queried and the future the remaining dwellings.
64. Indigo, a planning consultant on behalf of the land owners of the Mono Containers site to the south of the application site have made the following comments in objection to the application.
- The Retail Impact Assessment submitted to support this application has underestimated the floorspace consented on the former Mono Containers site and its turnover.
 - Access to the site solely from Damson Way would lead to highway impacts upon the Dragon Lane / Damson Way signalised junction. Highway consultants have proposed an alternative scheme involving amendments to the Damson Way access point and a secondary access from Dragon Lane to mitigate the significant increase in traffic from the proposed development. Without mitigation the proposals would result in conflict with Paragraph 32 of the NPPF and CDLP Policy T1.
65. *Police Architectural Officer* – Raises some concerns over the security fencing to the rear of both proposed stores, suggesting more robust fencing options.

APPLICANTS STATEMENT:

66. The proposal will regenerate an unattractive, run down brownfield site in east Durham located on the edge of the Sherburn Road District Centre and allocated for retail warehousing. Provision of around 110 total new employment opportunities and enhanced convenience and comparison shopping in a location accessible by a choice of transport mode, opposite the district centre thus facilitating linked trips, would lead an overall benefit in shopping provision for east Durham.
67. The proposal would support an established retail destination in the eastern part of the City and one recognised in the development plan as performing the function of a district centre. We consider the proposal would support the wider district centre function.
68. It has been demonstrated by this application the proposed development accords with national and local planning policy and would deliver wider planning and sustainability benefits for residents in the area. We consider the proposal would deliver sustainable development and would provide an economic, social and environmental role which accords with principles of sustainable development as set out in the NPPF. Having taken account of all relevant material considerations, we consider the proposal does not result in material conflict with relevant planning policy for the area, including the NPPF. The proposal will deliver sustainable development.
69. We consider the proposed development accords with the Development Plan and there are no material considerations which would otherwise lead to a conclusion that planning permission should be granted.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OHRWNKGDKCV00>

PLANNING CONSIDERATIONS AND ASSESSMENT

70. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, design and impact upon the surrounding area, access and highway safety issues, residential amenity, flooding and drainage and other issues.

Principle of Development

71. The application site benefits from an extant planning permission for 6,039 sq m of non-food A1 retailing, which has been implemented on site. This represents a fall-back position for the application site when considering this proposal.
72. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
73. CDLP Policy S1(A) defines a retail hierarchy of centres within the Durham City area, placing Durham City Centre first, District Centres (including Dragon Lane / Sherburn Road) second and Local Centres third. The approach to defining a retail hierarchy is consistent with the guidance within the NPPF which states a need to define a network and hierarchy of centres that is resilient to anticipated future economic changes (Paragraph 23), the Policy is therefore up to date in this respect and can be given full weight in the planning process. CDLP Policy CC1 identifies that the city centre of Durham be protected or enhanced to ensure its vitality and viability through promoting mixed uses. Policy CC1 states that the “sequential approach” to site selection should be followed in respects to major retail and leisure development. The NPPF similarly requires the sequential approach to be adopted. Development out with the city centre should be subject to the ‘sequential approach’ of major retail development being located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Policy CC1 is considered largely consistent with the content of the NPPF, though not fully consistent as Policy CC1 explains that the sequential approach will be applied to retail and leisure developments whilst the NPPF requires a broader application. Both the CDLP and NPPF (at paragraph 24) require a sequential test to be undertaken in regards to the development and this is discussed below.
74. The application site is allocated under CDLP Policy EMP8 (a) as the site forms part of the wider Dragonville Industrial estate. This policy is permissive of business (B1), general industrial (B2) and warehousing (B8) uses. The development does not propose a B use development type. However, part of the Dragonville industrial estate allocation which overwashes the site is specifically allocated under Policy S8 and this is discussed below.

75. The application site is allocated under CDLP Policy S8 as part of the Dragonville Industrial Estate where new retail warehouse development selling certain comparison goods can be considered acceptable subject to a number of criteria including that there is an identified need for the retail warehouse floorspace and that utilising the sequential approach the development cannot be located in a more sequentially preferable location. Again consideration to the sequential approach is given below. The Unit B proposed to be occupied by The Range would sell forms of bulky good comparison items which the policy considers is acceptable subject to criteria being met. Though there remains some potential for some of the items to be sold to conflict with the guidance under Policy S8. The proposed Unit B food store would conflict with Policy S8, which excludes food, drink and other goods which would be sold in a food store, from being permissible under a retail warehouse in full accordance with the policy. Therefore the development is in some conflict with the content of Policy S8.
76. CDLP Policy S8 is not fully up to date. The policy was based upon an identified need for retail warehouse development contained within evidence which informed the CDLP prior to its adoption. More up to date evidence based work (2013 Retail and Town Centre Study) no longer identifies such a need. As a result the weight to be attributed to the policy is considered to be reduced. In addition the NPPF does not expressly require that a planning application is accompanied by a demonstration of need.
77. CDLP Policy S9B relates to major out of centre retail development proposals such as that proposed and requires, where there is an identified need for large scale retail (and leisure as applicable) which cannot be met through existing allocations, that a sequential approach to site selection should be adhered. Policy S9B requires that the impact of the development, including cumulative impacts with other developments should not adversely affect the vitality and viability of any existing centres and be acceptable in regards to a range of other material planning considerations relating to highways and locational sustainability.
78. CDLP Policy S9B is considered partially consistent with the NPPF. Policy S9B requires an identified need to be established which is not reflected in the NPPF. Consideration as to the proposals compliance with the sequential approach to site selection, the impact of the development on the vitality and viability of existing centres and the highways/sustainability requirement of the policy are considered elsewhere in the report.
79. The NPPF which post-dates the CDLP is considered to provide the more up to date advice in respects to the sequential and impact tests and guidance on the assessment of retail development of the type proposed.

Sequential test

80. The application site is located within 300m and adjacent to the defined Sherburn Road/Dragonville District Centre and approximately 2.8km from the defined primary frontage in Durham City Centre. The applicant has submitted a sequential test, considering the potential of sites for the proposed discount foodstore (named as Lidl) and bulky goods store (named as The Range) in Durham City Centre and Sherburn Road/Dragonville District Centre.
81. The test concludes that there are no available sites within the Sherburn Road/Dragonville District Centre. These conclusions are considered acceptable as the centre is fully developed out with no existing development plots. The applicant acknowledges that sites exist to the north (former Kerry Foods site) and south (former Mono Containers site) of the application site. It is agreed that both of these sites are not sequentially preferable to the application site.

82. The test also concludes that there are no site opportunities within the City Centre. The applicant has referenced sites at Claypath, The Gates shopping centre and North Road stating the reasons why these sites are not available or suitable to accommodate the proposed development. Again the applicant's conclusions are considered acceptable, none of these sites is considered suitable, or in the case of The Gates available, for the proposed development.
83. Given the above, the findings of the sequential test are considered acceptable and there are no alternative sites for the proposed development in the city centre or district centre locations that would be sequentially preferable.

Impact test

84. As a result of the creation of 7,048 sq m of floor space, the proposal requires an impact test to determine whether the proposal will have a detrimental impact upon the city centre or other retail centres in the vicinity. The applicant has considered the impact that the proposal would have of any plans for public or private investment in Durham City Centre or the Arnison and Sherburn Road/Dragon Lane District Centres, revising their assessment in lieu of representations made by representatives of the Mono Containers site to the south of the application site in regard to amounts of retail floor space to their site. They have concluded that the proposal would not give rise to any significant adverse impact on planned public or private investment within these centres. These findings are considered acceptable.
85. In terms of impact of the proposal on town centre vitality and viability, each of the centres are stated to be healthy and viable and these findings are considered acceptable. Further information has been provided in regard to the changes to the centres since the Council's Retail and Town Centre Study was published in 2013. The greatest food retail impact would likely be to existing (food retail) stores at Tesco and Aldi to the opposite side of Dragon Lane as a result of the convenience store proposed to the application site. It is concluded that these stores would see the highest levels of trade diversion to the proposed store. This is not disputed given the proximity of these stores to the proposed site. However the applicant has stated that due to the trading performance of the centre and these two retailers in particular, this would not give rise to any impact concerns, a view shared by officers.
86. Furthermore, the impact test concludes that the impact on other stores outside the Sherburn Road/Dragonville District Centre would be most felt by the Lidl store at the Arnison Centre. Limited convenience trade diversion is anticipated from Durham City Centre by the applicant. It is agreed that existing convenience food provision in the City Centre is top up in nature and it will continue to fulfil this role despite development of the proposed Lidl store. It is also agreed that the impact on local centres in the city would be limited. Belmont and Gilesgate local centres are located within closest proximity and will continue to perform a top up function and will be largely unaffected by the introduction of a new retailer adjacent to the district centre.
87. With regards to the impact of the proposed 'The Range' store or the comparison (non-food) impact, the nature of this retailer is the goods are more 'bulky' in nature. Given the type of retailing within Durham City Centre the impact on the centre is likely to be minimal. The impact test concludes that trade diversion would be focused on similar units such as those found within the neighbouring district centre, but also Durham Retail Park, the commitment on the Mono Containers site to the south and also the Arnison Centre. These conclusions are considered acceptable and the proposals would not have a significant adverse impact upon district centres.

88. Therefore in considering the above, the impact that the scheme (both units) would have on defined centres is not considered to be significantly adverse. These conclusions are based upon the specific retailers and their general retail offer, and so Spatial Policy officers suggest that should the scheme be approved, conditions restricting the nature of retailing to that which has been applied for should be considered. In order to maintain control over the potential future impacts upon the city and district centres it is considered appropriate to follow this guidance and historic permissions on the site which have also taken this approach. Minimum unit sizes were also restricted by the enacted planning consent, and repetition of this approach would also be considered appropriate to maintain control over the impacts upon the other centres.

Sustainability of the development

89. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant. In relation to the economic and social roles it is recognised that there are regeneration benefits associated with the proposal. This includes the physical regeneration benefits of development of a previously developed site. The site has good access to public transport with regular bus service to the city centre and the wider area within walking distance of the site. Further to this the job creation benefits should be afforded some weight. The development would therefore contribute to the economic and social dimensions of sustainable development. However full consideration needs to be given to the potential environmental effects of the development and these are assessed below.

Conclusion on Principle

90. The wider impacts of the proposals have been assessed through retail impact and sequential tests which have concluded that the development could be accommodated without impact upon the viability and vitality of the city centre and other retail areas in the city, and that alternative sites cannot be found. The site is considered sustainably located with access to public transport and links to the city centre and beyond. Regeneration brought by the scheme would bring economic and social benefits from the proposals, as would the re-use of a previously developed site. CDLP Policy S8 is considered to be a policy which is out of date and as such, the assessment of the application would be required under Paragraph 14 of the NPPF to ascertain if the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, or whether specific policies within the NPPF indicate that the development should be restricted. The sustainability of the site weighs in favour of the development and the assessment of other areas below will be accounted for within the planning balance.

Design and Impact upon the Surrounding Area

91. Comprised of four separate buildings, the application site encompasses a selection of former industrial buildings and operational businesses together with the houses proposed for demolition. Damson House, to the eastern portion of the site is a large former industrial building that is currently internally subdivided into smaller units with a handful of small business operating from within. The former warehouse to the northern part of the site is derelict, with smaller buildings to the western portion of the site containing a furniture shop and hand carwash facility, all utilising the existing buildings. Redevelopment of these aging and derelict buildings would improve the appearance of the immediate area in a positive manner.

92. The proposed retail units represent current contemporary designs in regard to large, standalone retail development. The buildings proposed reflect the scale and massing of the original buildings on the site, so not fundamentally alter the quantum of built form in the area. Visually, the proposals represent similar development to that which has been built across the area and would be in keeping with the likes of the Durham City Retail Park to the north, Tesco across Dragon Lane, parts of Dragonville Retail Park and the recently constructed Kwik Fit centre which forms part of the former Kerry Foods site to the north of Rennys Lane. CDLP Policies Q1, Q2, Q3, Q4 and Q5 together require safe, inclusive, accessible and good quality, well landscaped developments. These policies are considered to be consistent with the NPPF.
93. Set back of the proposed buildings to the north and east of the application site and the positioning of the car park to the corner of Dragon Lane and Damson Way lead to the provision of an attractive environment which echoes the setback portrayed by the Tesco development opposite. The Council's Design Officer has noted the landscaping proposals to the western and southern boundaries and their role in providing a softened streetscene to the proposals. Landscape officers also note the landscaping proposals, however raised initial concerns over the quantity and quality of the proposed scheme. Following revisions to the scheme has been improved with additional planting to the agreement of Landscape officers.
94. Overall, the proposed development represents an example of modern, standalone retail development that would be visually in keeping with the surrounding area and other retail development. The redevelopment of the application site would significantly improve the visual appearance of the area, and so is considered to be in accordance with CDLP Policies Q1, Q2, Q3, Q4 and Q5, and Part 7 of the NPPF.

Access and highway safety issues

95. CDLP Policy T1 requires development to not adversely impact upon highway safety or amenity of adjoining occupiers, and is considered partially consistent with the NPPF. Paragraph 32 of the NPPF requires applications which proposed significant amounts of traffic movements should supported by a Transport Assessment (TA) and should only be refused where the residential cumulative impacts of development are severe. Concerns over local highway capacity of the road network to accommodate additional flows and the resultant impact on highway safety have been raised by some local residents.
96. Dragon Lane and surrounding roads north (Sunderland Road) and south (A181, Sherburn Road) have been highlighted by the Highways Authority as already operating above their designed capacities through volume of traffic and is acknowledged, in part, by the modelling undertaken within the TA. The Highways Authority confirm that the proposals would not be able to be accommodated by the existing highway network. As part of their comments upon the application, the Highways Authority note that the authority are in the process of funding and designing a 'Retail Park Relief Road' which would operate to the east of the application site and take in part of Damson Way from the junction of Sherburn Road and the linking to Rennys Lane and McIntyre Way adjacent to the Durham City Retail Park.
97. The Highway Authority confirm that the planned relief road would be required to mitigate the impacts of this proposed development and in so doing would ensure that the proposals would not lead to a sever cumulative impact upon the surrounding highways network, as required by Paragraph 32 of the NPPF. The Highways Authority therefore request a formal contribution from the developer towards the provision of the relief road which can be secured through planning obligation. The developer has confirmed their acceptance of this approach.

98. The scheme proposes 272 car parking spaces, sufficient to accommodate the proposed development under the Council's Retail Car Parking Standards. Vehicular access is proposed from Damson Way opposite the previously constructed access to the Mono Containers site. Representations have been made to this application on behalf of the land owner of the Mono Containers site. They have been raised concerns over the proposed access point and the lack of an access in to the site from Dragon Lane.
99. Following revision of the immediate internal road layout of the proposed site, the access is considered to align better with the opposing junction and is to the agreement with the Highway Authority. The secondary access off Dragon Lane has also be considered by the Highways Authority, and they consider that the benefits of this access, which would lead to less need for traffic to turn left southbound off Dragon Lane on to Damson Way in order access the site, would not be outweighed by the disadvantages. Traffic heading northbound on Dragon Lane would need to cross two lanes of traffic to access the site, with any yellow box markings designed to keep this access point clear of southbound traffic resulting in the benefit of the access being lost. Reduction of two southbound lanes to a single lane would lead to more queuing back up Dragon Lane and reduced capacity at the signals. All this notwithstanding waiting northbound traffic likely causing queues back to the Tesco traffic lights. Proximity to the residents only parking area access is also of a concern. On this basis the Highways Authority consider the proposal by the representatives of Mono Containers to be unsuitable.
100. Service access to both units is separate, one from Damson Way for Unit A and the other from Rennys Lane for Unit B. Both are established industrial access points for the previous uses at the site, and their proposed re-use and modifications are again accepted by the Highway Authority.
101. As part of the proposals, residential off-street parking for residents of Teasdale Terrace is proposed in place of several of the dwelling houses to the southern part of the terrace (numbers 14-19). Their removal would open up views of Unit B as well as provide an off-street parking to the remainder of the terrace. Off-street parking in this manner was used in the past when as part of the Tesco store development, a parking area for dwellings of Providence Place, residential dwellings in close proximity to the Dragon Lane / Sunderland Road junction. Inclusion of a scheme for off-street parking to the residents of Teasdale Terrace is considered acceptable in principle. The layout and access of the parking area is considered acceptable in lieu of the expected traffic flows.
102. CDLP Policy T20 requires new development to accommodate cycle parking facilities to promote this sustainable mode of transport, and is consistent with the aims of the NPPF. Cycle parking is proposed throughout the site, and the level of parking is commensurate to the proposed uses. The Highway Authority is concerned about the lack of detail in regard to the form which the cycle parking will take and so requests details of the cycle parking by way of condition. National Cycle Network (NCN) Route 14 runs adjacent to the application site (to which CDLP Policy T19 relates) and suitable access form the network to both of the retail units are proposed. The junction of Dragon Lane and Rennys Lane has been highlighted by our sustainable travel team as an issue to the cycle route and the creation of off-street parking for Teasdale Terrace is seen as a positive and allow permeability for cyclists between Rennys Lane and the western side of Dragon Lane.

103. Travel Planning officers have reviewed the submitted Framework Travel Plan, which is largely considered to be sound but requires further amendments. It is considered that this matter can be dealt with by condition, along with securing the implementation of a travel plan coordinator to secure sustainable travel objectives. Sustainable methods of transport to the site are also encouraged within the submission with provision for both cycle parking and electric vehicle charging point proposed, and it is considered appropriate that these aspects be covered by condition to ensure their delivery in accordance with Part 4 of the NPPF and CDLP Policies T1 and T19.
104. Overall, based on the advice of the Highway Authority, the proposed retail development would lead to an impact upon an already saturated network that without appropriate mitigation would lead to an impact upon the highway network. As a result, the Retail Park Relief Road is considered necessary to mitigate the impacts of the development and a financial contribution towards the cost of providing this mitigation would be secured. The internal layout is considered acceptable, with revised access arrangements deemed appropriate. Subject to conditions relating to agreeing engineering details of the proposed highway improvements to the site boundary and details of cycle parking and electric vehicle charging points and an updated travel plan, the proposal is considered acceptable in highways terms and complies with CDLP Policies T1, T19 and T20 and Part 4 of the NPPF.
105. Though an applicable Policy, T10 is considered inconsistent with the content of the NPPF as the NPPF is considered to permit a more flexible approach to parking standards and furthermore the parking standards which have informed Policy T10 are out of date. As a result the Policy is attributed very limited weight in the decision making process.

Residential Amenity

106. CDLP Policy H13 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. This Policy is considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. CDLP Policy U5 states that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land. This policy is considered partially consistent with the content of the NPPF and can be attributed weight in the decision making process. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Part 11 of the NPPF seeks to avoid noise from giving rise to significant new impacts. One representation received outlined concerns over increased theft and drinking disorder in the area as a result of the proposed retail stores.
107. The closest residential properties are to Teasdale Terrace and Rennys Lane which border the site to the west and north and wrap around the side and rear of Unit B. A range of impacts from the proposal are possible upon the residential occupiers of these buildings. Primarily, the general impacts associated with the store operation such as vehicle movements of customers, operation of machinery and plant and deliveries. The proposed store opening hours are unknown at this time, but corporately the likely end users operate within standard hours which are comparable to similar uses in the vicinity, including the neighbouring supermarkets and other retail uses. Noise generated from the movement of cars would be within acceptable levels during the majority of the day, as it would be assimilated into the high overall background noise level of this busy retail location. There is potential for some disturbance later at night as a result of any later opening times (10pm Monday – Saturday); however this would not be considered to cause a significant adverse effect in accordance with CDLP Policy H13.

108. The design of the proposed retail stores would see delivery bays and plant compounds located to the rear of both units – east of Unit A, north of Unit B. Industrial uses to the east of the application site would result in little impact from the equipment located to the rear of Unit A; however the presence of residential properties to the rear of Unit B along Rennys Lane would raise a potential conflict. The rear of Unit B would feature the delivery bay for the unit, an outdoor garden centre area, staff parking and external plant compound.
109. The Noise Impact Assessment (NIA) has been reviewed by the Council's Environmental Health and Consumer Protection officers and they are satisfied that the proposal would not result in a statutory nuisance. Unit A is proposed to operate with 24/7 deliveries, and as a result of the building orientation and delivery bay position (rear, east, of building with delivery bay facing south) would not be considered to cause an undue impact operating at those levels. Unit B, operating as a non-food retail A1 use, is proposed to operate only daytime deliveries (i.e. 0700 to 2300 hours). The Environment, Health and Consumer Protection officer has confirmed that this operating the store with deliveries in this fashion would be within the thresholds contained within the Technical Advice Notes (TANs). Impacts upon residential amenity would not be unacceptably adverse/harmful in accordance with CDLP Policies H13 and U5.
110. Fixed external plant is expected to both units, with plans indicating compounds for equipment such as air handling units and refrigeration plant. No exact details of the proposed type, location and number of plant equipment are known. As a result, the NIA proposes noise limits to which any installed plant would be allowed to operate to once installed. These would be no more than +5 dBa above background noise level between 0700 and 2300, and +0 dBa between 2300 and 0700. Based upon the background noise survey undertaken appropriate noise levels for daytime, early evening, and night time have been set following the above guidance, and Environmental Health officers consider this is appropriate to be controlled under condition so as to establish maximum noise levels for future plant installation across the development. Officers are satisfied that the subject to the setting of maximum noise levels for future external plant and machinery and deliveries to Unit B, the residential amenity of nearby properties would safeguarded sufficiently by these proposals.
111. External lighting is proposed to the site, yet no detail has been provided with the application. As the site is in close proximity to residential properties, it is considered appropriate to agree details of a proposed lighting scheme by way of condition to ensure that lighting levels and spillage are suitably contained.
112. The construction phase of any new major development can be one which lasts several months or years and can, as a result lead to impacts of their own upon the surrounding area. Primary impacts include noise, dust, vibration and light and can cause significant impacts upon nearby residents if not controlled. The proximity of neighbouring residential properties would make some form of control appropriate to safeguard amenity. A condition requiring a Construction Management Plan detailing measures to minimise the impact of construction activities on the neighbouring properties would therefore be appropriate in order to safeguard amenity during the construction phase of the development.

113. The proposed layout of the development would see the demolition of 14-19 Teasdale Terrace to the western boundary of the application site. The creation of a residents-only car parking area has been provided in their place to allow increased visual permeability to this area of the site as well as mitigate some highway impact from the development. The initial site plan for the development proposed a pedestrian footpath link from the front of Unit B which would then run past the side of the new gable of 13 Teasdale Terrace. This has been amended to run straight through the parking area and so remove this potential source of nuisance to the residential property, highlighting an improvement to the proposals. The Police Architectural Liaison Officer has raised concerns over the proposed 2.4 metre high close boarded timber fence to the rear of Teasdale Terrace in terms of security for the site. However, the aesthetic properties of this fence type in close proximity to the rears of the residential properties is equally important and so the benefit of the surveillance afforded by the residential properties overlooking the site in this case, would allow the close-boarded fencing to be appropriate in this instance.
114. One representation to the application has highlighted the increase in the retail offering the area would lead to increased theft and drinking disorder in the area. Any new retail development would attract these in some form, depending upon the retail offer, even to low levels and is one of the downsides to retail development in general. This, however, would be considered very minor in the overall balance of this case.
115. Overall, whilst it is reasonable that there would be a minor reduction in the level of amenity experienced by the occupiers of surrounding residential properties due to the proximity of the development, most of the noise impacts would be assimilated into the background noise climate in the operational phase. No objections were received from nearby residents or other premises with regard to amenity concerns and no objections are raised by Environment, Health and Consumer Protection officers subject to the imposition of planning conditions where necessary. The development is therefore considered to comply with CDLP Policies H13 and U5 and Parts 8 and 11 of the NPPF in this respect.

Flooding and Drainage

116. Part 10 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 11 of the NPPF takes account of the impact of any development upon the natural environment. Paragraph 103 of the NPPF specifically requires development to ensure flood risk is not increased elsewhere. CDLP Policy U10 seeks to prevent increases in flood risk occurring due to development whilst Policy U8a requires satisfactory drainage provisions within development. Both policies have consistency with the NPPF.
117. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low fluvial flood risk probability. A mains sewer connection is proposed for both foul and surface water connections.
118. In order to reduce flood risk as a result of the proposed development, the application proposes a drainage strategy to deal with surface and foul water drainage from the site. The strategy outlines that ground conditions are unsuitable for a scheme of soakaway and that there is not a known watercourse within a suitable distance (670m being the nearest) of the site for surface water disposal. Therefore the strategy proposes to discharge surface water run-off from the site into the public sewer network.

119. The site is brownfield and contains existing hardstanding and buildings. The strategy calculates a current surface water run-off rate of 260 litres per second into the public sewer network. The application proposes a drainage scheme that incorporates an underground storage tank. This would be capable of attenuating surface water to a run off rate of 51.9 litres per second. The proposed scheme, discharging at this rate would accommodate 1 in 100 year flood event plus a 40% increase for climate change. Drainage and Coastal Protection officers state that the site should be commensurate to equivalent 'greenfield' run-off rates for sites of this size (1.97 Ha) at 9 litres per second.
120. The applicant has reviewed the scheme in light of the requirements put forward by Drainage and Coastal Protection officers but consider that they are unable in their scheme to reduce discharge rates from their proposals below the 51.9 litres per second proposed. The applicant contends that the site levels, which fall from north to south, would make utilisation of standard SUDs techniques impracticable due to construction reasons. The site also benefits from an extant and implemented planning permission for a retail scheme of similar scale at the site which has previously established a drainage strategy with no betterment in surface water run off rate.
121. Paragraph 103 of the NPPF requires new development to not increase flood risk elsewhere. Ultimately a condition can be utilised to seek to agree final drainage disposal for the site. Within this officers can seek the most effective yet practicable solution. The site in its current form has no surface water run-off retention in any of the separate discharges in to the public sewer network. The proposed attenuation of surface water run-off within these proposals, while not reducing the surface water run-off rate to that which corresponds to a 'greenfield' run-off rate nevertheless would represent an improvement over the existing situation. Therefore it is the view of officers that the planning application should not be refused when considering that the proposed development would not increase the risk of flooding from the present situation at the site without the development. Northumbrian Water offer no objections subject to the implementation of the proposed drainage scheme and restriction in run-off rate. Foul water discharge would be considered domestic in nature and would be discharged in to the existing network to the acceptance of Northumbrian Water.

Other Issues

122. In relation to land contamination the applicant has submitted a phase 1 desk study report which identifies that there is a low risk of contaminants being present on site, but site investigation work is recommended. After reviewing the submitted report the Council's Environment, Health and Consumer Protection officers (Contaminated Land) advises that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations in line with CDLP Policy U11 (consistent with the NPPF) and Part 11 of the NPPF.
123. Paragraph 109 of the NPPF advises that new and existing development should avoid contributing to unacceptable levels of pollution, including air pollution. The proposed development would lead to an increase in traffic movements in the vicinity of the application site and subsequently through the Air Quality Management Area (AQMA) to north at the junction with Dragon Lane and Sunderland Road. However, in highway safety terms the proposed development would not be acceptable without mitigation of increased traffic movements as a result of the proposed use. This mitigation would take the form of a proposed Retail Park Relief Road to the east of the application site and the AQMA. The relief road, as discussed earlier in this report, would link McIntyre Way adjacent to the Durham City Retail Park with Damson Way resulting in junction improvements where this meets Sherburn Road. This second north-south route would be considered to relieve vehicle movements upon Dragon Lane from both this development and the existing traffic levels. The Council's Environment, Health and Consumer Protection officer acknowledges the principle of the relief road and its wider impact upon existing traffic levels through the AQMA.

124. A retail travel plan, that would encourage the use of alternative means of transport other than the private car, has been submitted with the application and amendments are required and previously recommended to be secured by planning condition.
125. The application sites offer little by way of ecological habitat. The scale and nature of the development and its urban location would be unlikely to bring about any meaningful biodiversity gains, however the Preliminary Ecological Appraisal highlights some low level mitigation measures and therefore the Ecology Team have raised no objections subject to the implementation of these mitigation measures.
126. The Economic Development (Employability) Team note that the development could create new employment opportunities or training. Consequently, a condition is suggested in order to secure Targeted Recruitment and Training measures.

Planning Obligations

127. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 sets out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contribution towards highway network improvements is considered to be in accordance with these tests.

Planning Balance

128. In summary, CDLP Policy S8 is considered out of date for the purposes of determining this application and so the acceptability of the proposals should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits.

Benefits

129. The development would bring forward a previously developed site in a run down and in places derelict condition that is in close proximity to services and public transport links. Regeneration of the site would bring job opportunities benefiting the local economy.
130. A betterment in surface water run-off discharge from the site over the current site conditions and the extant planning consent would reduce flood risk. Albeit this benefit is reduced somewhat by the proposals not being able to hit the 'greenfield' run-off rate for a site of this size.
131. Mitigation of the highway impacts of the proposed development through the provision of the Retail Park Relief Road would also contribute towards easing the wider highway and air quality issues in the Dragon Lane / Sunderland Road area.

Adverse Impacts

132. A shift from the previous industrial type development that once occupied the site would result in some adverse economic impact upon the local area through the loss of an industrial employment opportunity.

CONCLUSION

133. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant.
134. The scheme would protect the vitality and viability of existing centres in the city centre and nearby district centres. The scheme would also provide for job creation at both the construction phase and once operational. The development would therefore contribute significantly to the economic and social dimensions of sustainable development.
135. In relation to the environmental effects, the re-development of the site would address the overall untidy condition and improve the visual appearance of the application site, enhancing the character and appearance of the area through use of contemporary design and materials, together with a layout respectful to the proposed end use and surrounding constraints.
136. The proposal would be served by an appropriate means of access but would have an unacceptable impact on the wider highway network without mitigation. A financial contribution towards the provision of a 'Retail Park Relief Road' between Rennys Land and the A181 via Damson Way would be necessary to mitigate the impacts of the proposed development.
137. The presence of a noise climate with a high background level would result in limited, if any impact upon the nearest residential properties subject planning conditions. Again negligible impacts are likely from allowing unrestricted delivery times to the food retail store (Unit A). The scheme is considered to not increase the risk of flooding elsewhere.
138. The proposal has generated some public interest. Concerns were expressed by a small number of residents in regard to some aspects of the development, albeit offering support in principle to the application, and were carefully balanced against the scheme's wider social, economic and environmental benefits.
139. In the planning balance the scheme is considered to represent sustainable development with no specific policies within the NPPF indicating that the development should be restricted whilst any adverse impacts arising from the development would not significantly and demonstrably outweigh the benefits.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- A maximum of £175,000 towards the provision of a 'Retail Park Relief Road' in the vicinity of the site.

and subject to the following conditions:

Time Full

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Plans

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents:

Date Received	Plan Ref	Description
31.01.2018	13458-098 Rev A	Site Location Plan
18.04.2018	13458-170 Rev F	Proposed Site Layout
18.04.2018	13458-177 Rev C	Proposed Boundary Treatment Plan
27.04.2018	V13458-L02 Rev E	Landscape Plan
31.01.2018	13458-173	Proposed Elevations 1
31.01.2018	13458-174	Proposed Elevations 2
31.01.2018	13458-171	Proposed GA Plans
31.01.2018	13458-172	Proposed Roof Plans
31.01.2018	13458-176	Proposed Site Sections

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies S1A, S8, EMP8.a, H13, Q1, Q2, Q3, Q4, Q5, T1, T19, CC1, U8a and U11 of the City of Durham Local Plan and Parts 1, 2, 4, 7, 8, 10, 11 and 12 of the National Planning Policy Framework.

Planning use related

3. The Class A1 retail floor space hereby permitted shall not exceed 7,513 square metres gross, of which 5,388 square metres gross shall be as a single non-food retail store ("Unit B") and 2,125 square metres gross shall be as a single food retail store ("Unit A").

The non-food retail floor space hereby approved in Unit B shall be used for the sale of DIY goods, home improvement goods, electrical goods, general building merchandise, furniture and furnishings, beds, floor coverings, motor accessories, office equipment, pet products, gardens centre products, homewares, bicycles, toys and ancillary items thereto and shall not be used for any other purpose including those set out in Class A1 of Schedule of the Town and Country Planning (Use Classes) Order 1987 or any other Order revoking, amending or re-enacting that Order with or without modification.

Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of Durham City Centre, and other nearby District and Local Centres in accordance with City of Durham Local Plan Policies S1A, S8 and CC1, and part 2 of the National Planning Policy Framework.

4. The development shall not be subdivided or subsequently altered to create units of less than 400 square metres gross floor space, and no further internal floorspace shall be created.

Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of Durham City Centre, and other nearby District and Local Centres in accordance with City of Durham Local Plan Policies S1A, S8 and CC1, and part 2 of the National Planning Policy Framework.

Pre-commencement

Construction Methodology

5. Prior to the commencement of any part of the development or any works of demolition, hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - a. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 - b. Details of methods and means of noise reduction/suppression.
 - c. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 - d. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;
 - e. Designation, layout and design of construction access and egress points;
 - f. Details for the provision of directional signage (on and off site);
 - g. Details of routes for HGV vehicles routes to and from the site;
 - h. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
 - i. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 - j. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
 - k. Routing agreements for construction traffic.
 - l. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - m. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
 - n. Detail of measures for liaison with the local community and procedures to deal with any complaints received.
 - o. The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In order to protect the amenity of neighbouring residents from commencement of the development in accordance with Policies H13 and T1 of the City of Durham Local Plan and Parts 4, 8 and 11 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

Contaminated Land

6. Prior to the commencement of any part of the development hereby permitted a scheme to deal with contamination shall be submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections (a), (b), (c) or (d) are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

- (a) Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

- (c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.
- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and for the Local Planning Authority to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems details are required in advance of work commencing on site in accordance with NPPF Part 11. This is required as a pre commencement condition in order to mitigate potential impact upon the sensitive end use of the site which needs to be considered before site works commence.

Targeted Recruitment and Training

7. No development shall commence until an Employment & Skills Plan is submitted to and approved in writing by the Local Planning Authority. Thereafter the development hereby approved shall be carried out in accordance with the approved Employment & Skills Plan.

Reason: In the interests of building a strong and competitive economy in accordance with Part 1 of the NPPF. This condition is pre-commencement as it concerns construction workforce employment.

Foul and Surface water drainage

8. No development shall commence until a scheme for the provision of surface and foul water drainage works shall be submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the details agreed.

Reason: To prevent pollution of the water environment in accordance with Policy U8a of the City of Durham Local Plan and Part 10 of the National Planning Policy Framework. This is required as a pre commencement condition to ensure that the proposed development provides adequate levels of drainage which needs to be considered before site works commence.

Time Limited

Site Levels

9. Prior to the construction of the buildings hereby approved, plans and/or sections setting out proposed site levels and finished floor levels shall be submitted to and agreed in writing by the local authority.

Reasons: In the interests of visual amenity in accordance with Policies H13 and Q1 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

Highway Engineering Details

10. Within three months of the commencement of the development, full engineering details including a timetable of implementation of the proposed vehicular access on to the highway network shall be submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be implemented in accordance with the details and timings.

Reason: In the interests of highway safety in accordance with Policy T1 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

Landscaping Implementation

11. Prior to either of the buildings hereby approved first being brought in to use or in the first planting season following completion of the development, whichever is later, the landscaping scheme hereby approved (plan ref: V13458-L02 Rev E) shall be fully implemented. The scheme shall be subject to the following requirements: -

- No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.
- Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.
- Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.
- Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q5 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

Landscape Maintenance

12. Prior to either of the buildings hereby approved first being brought in to use, a scheme for the ongoing maintenance of the areas of landscaping within the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, the following requirements:

-

- Detailed dimension cross section indicating any urban irrigation system to aid with successful establishment and life expectancy.
- No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.
- Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of trees and hedges.
- Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q5 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

External Lighting details

13. Prior to each of the buildings hereby approved first being brought in to use, a lighting strategy for the each building shall be submitted to and approved in writing. The approved lighting strategy shall thereafter be incorporated into the development.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the National Planning Policy Framework.

Cycle parking detail

14. Prior to the occupation of any of the approved buildings, full details of the proposed cycle parking shall be submitted to and approved in writing by the local planning authority. Thereafter implementation shall be in accordance with the approved details within three months of the occupation of the each building.

Reason: In the interests providing sustainable transport choice, in accordance with Policy T19 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

Travel Plan

15. Within a period of six months of the first occupation of any part of the development of the relevant phase, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented thereafter in accordance with the approved timescales.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy T1 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

Other conditions

Working hours

16. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

External plant noise levels

17. At the nearest residential dwellings the cumulative noise rating levels associated with the fixed plant and machinery should not exceed 53dBLeq during the daytime (0700-1900 hours), 46dBLeq during the evening (1900 – 2300 hours) and 35dBLeq during the night time (2300-0700hours).

Reason: In order to protect the amenity of neighbouring residents from commencement of the development in accordance with Policies H13 and T1 of the City of Durham Local Plan and Parts 4, 8 and 11 of the National Planning Policy Framework.

Ecological mitigation

18. The development shall be carried out in accordance with the mitigation outlined within the “Ecological Appraisal, Land off Dragon Lane, Durham, Report reference: R-2169-02.2, January 2018”.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the National Planning Policy Framework.

Provision of electric parking bays in perpetuity

19. Notwithstanding the details submitted with the application, a minimum of 2no. electric vehicle charging parking facilities shall be provided on the site and remain in in working order.

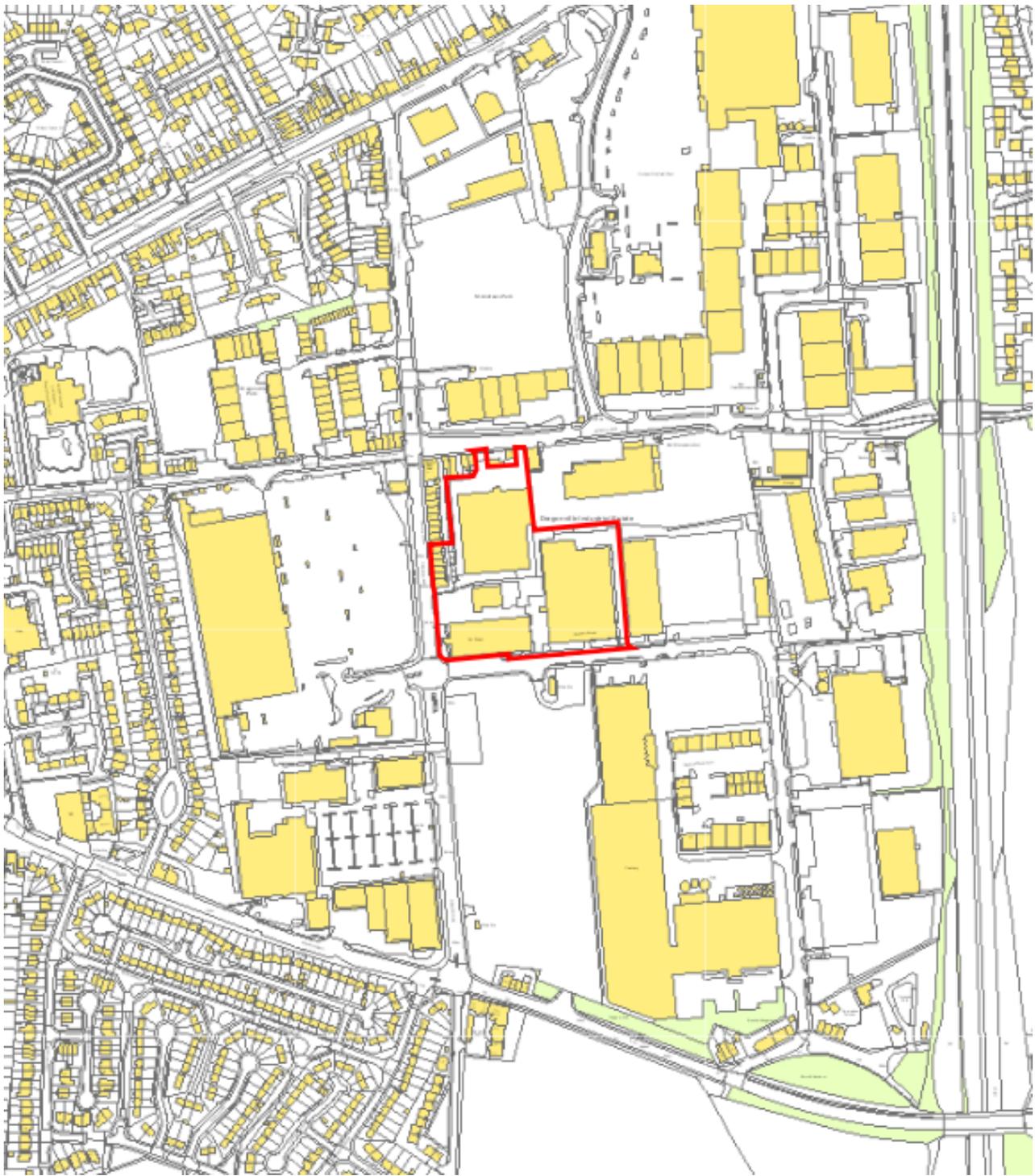
Reason: In the interests of promoting sustainable travel in accordance with Policy T1 of the City of Durham Local Plan and Parts 4 and 8 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance notes.
- City of Durham Local Plan 1997.
- DCC SuDs Adoption Guide 2016.
- Statutory, internal and public consultation responses.



Planning Services

Demolition of Existing Buildings and Construction of Discount Foodstore (Class A1), Non Food Retail Unit (Class A1) with External Garden Centre, Provision of Associated Access, Customer Car Parking, Landscaping and Associated Works.

Damson House, Dragon Lane, Gilesgate, Durham

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Comments

Date May 2018

Scale 1:1250

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00608/FPA
FULL APPLICATION DESCRIPTION:	Erection of a three-storey office and training centre (Use Class B1 / D1) with access, car parking, delivery / service bay.
NAME OF APPLICANT:	Mandale Investments Limited
ADDRESS:	Former Phillips Components Ltd Belmont Industrial Estate Durham DH1 1TH
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Graham Blakey, Senior Planning Officer 03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The former LG Philips site lies within the eastern part of the Belmont Industrial Estate which is in turn located on the north eastern edge of Durham City. The site is accessed directly from the estate's distributor road, which joins Belmont Road to the south by means of a recently improved traffic signal controlled junction. Belmont Road joins the A690 via a grade separated junction to the west, and this dual carriageway directly links the city centre to the south, and Junction 62 of the A1 (M) to the north.
2. The application site consists of a parcel of land lying towards the northern edge of the former LG Philips site and forms part of Phase 2 of the redevelopment of this employment site. The development has various phases of which several have been implemented, including Phase 2 in which this application resides.

The Proposal

3. This application relates to the erection of a single, three storey office block with a total gross internal floor area (GIA) of 1,050 sq. metres, and increase of 430 sq. metres over the original building (or 41%). The building would be used for mixed Use Class B1 (offices) and D1 (non-residential institutions) and would replace one of the five previously approved office blocks. This block was previously approved as a two storey unit that formed part of Phase 2 of the overall redevelopment of the LG Philips site (ref: DM/15/02309/FPA) and an increase in office space is being sought to meet the requirements of an identified end-user.

4. Design and landscaping principles would be carried forward for the previously approved scheme and would see the building remain part of five set within a landscaped car park and being of contemporary design with mono-pitched roofs in dark grey profiled composite panels with powder coated verges. Elevations would consist of pewter coloured architectural coursed masonry blockwork, with terracotta infill panels for relief. Elevations would be punctured by square windows, with a front elevation entrance feature taking the form of a two storey glazing with ground floor door. 45no. car parking spaces are proposed for the enlarged building, up 8 spaces upon the original approval for the two storey unit at the site. 76 full-time equivalent jobs are to be created by the proposed office building.
5. This planning application is being reported to Central and East Planning Committee because it is mixed use development with a floor area in excess of 1,000 sq. metres.

PLANNING HISTORY

6. Planning Permission No. 4/06/00558/FPA was granted in September 2006 for the erection of 10 office buildings, a single unit restaurant and associated car parking (Phase 1 – south west portion of the site).
7. Planning Permission No. 4/07/00375/FPA was granted in November 2008 for the erection of new office units and conversion of existing buildings to offices plus 994 car parking spaces (Phase 2 – remainder of site).
8. Planning Permission No. 4/11/00256/FPA was granted July 2011 for the renewal of planning permission for the erection of new office units and conversion of existing buildings to offices plus 720 parking spaces, as amended by 4/09/00976/VOC, (Phase 2 – remainder of site).
9. Various amendments to the layout of Phase 2 were approved between 2013 and 2015 that included the amalgamation of some Blocks, differing of contributions, greater flexibility in planning use (i.e. to B1, B2 and B8), and associated minor external alterations.
10. Planning permission No. DM/16/02335/FPA was granted in December 2016 for the erection of a Distribution Centre and for amendments to 4no. blocks to allow greater flexibility in planning use (i.e. B2 and B8).

PLANNING POLICY

NATIONAL POLICY

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.

12. In accordance with Paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
13. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
14. *NPPF Part 2 – Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
15. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
16. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
17. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
18. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimizing impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
19. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<https://www.gov.uk/guidance/national-planning-policy-framework>

20. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; ensuring the vitality of town centres; flood risk; land stability; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The City of Durham Local Plan (2004) (CDLP)

21. *Policy E16 – Nature Conservation – The Natural Environment.* This policy is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
22. *Policy EMP5 – Prestige Industrial Sites.* This policy identifies Belmont Industrial Estate as a prestige industrial estate suitable for use class B1 and B2 uses.
23. *Policy T1 – Transport – General.* This policy states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
24. *Policy T10 – Parking – General Provision.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
25. *Policy T20 – Cycling – Provision of Cycle Parking.* Sets out a requirement to encourage the provision of facilities for parking cycles in the city centre and at other appropriate locations.
26. *Policy Q5 – Landscaping – General.* Requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
27. *Policy Q6 – Landscaping – Structural Landscaping.* Requires new development to edge of settlement locations to provide peripheral structural landscaping within the site to minimise any adverse visual impact.
28. *Policy Q7 – Industrial and Business Development.* Sets out that new development should be of a standard appropriate to the designated area in which it is located.
29. *Policy Q15 - Art in Design.* Encourages artistic elements within the design and layout of new development.

30. *Policy U5 – Pollution Prevention – General.* Planning permission for development that may generate pollution will not be granted if it results in; an unacceptable adverse impact upon the quality of the local environment; the amenity of nearby and adjoining land and property or; will unnecessarily constrain the development of neighbouring land.
31. *Policy U8a - Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
32. *Policy U10 – Natural Flood Plains.* Proposals shall not be permitted in flood risk areas or where development may increase the risk of flooding elsewhere unless it can be demonstrated by way of sequential test that there is no alternative option available at lower risk, there will be no unacceptable risk of flooding, there will be no unacceptable increase in risk of flooding elsewhere and appropriate mitigation measures can be put in place to minimise the risk of flooding which can be controlled by planning condition.
33. *Policy U14 - Energy Conservation – General.* States that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY:

The County Durham Plan

34. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant. The full text, criteria, and justifications of each may be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (City of Durham Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. *Highway Authority –* Raise no objections. The previous approval for the overall site in 2008 set out the impacts upon the wider network and mitigation measures have since been installed. The uplift in floorspace is relatively limited in the wider context of the site and would not result in safety implications to the surrounding highway network. The amendment provides sufficient additional car parking spaces for the increased floorspace and 2no. electric car parking bays should be provided.
36. *Northumbrian Water –* Raises no objections.

37. *Drainage and Coastal Protection* – Raise no objection.
38. Coal Authority – A mine shaft on-site and a zone of influence of a mine shaft off-site affect the development site. Full assessment to identify the exact location of the mine shaft on site has taken place and located the shaft, however concerns are maintained as the assessment of risk from this shaft upon the current proposed development and any mitigation require full detailing.

INTERNAL CONSULTEE RESPONSES:

39. *Design and Conservation* – Raises no objections. This would be comparative to the scale of other approved units within the wider industrial estate. The 3-storey unit remains consistent in terms of the contemporary industrial-architectural aesthetic and materiality of the approved and will unify the appearance of surrounding units.
40. *Landscape* – Raise no objections subject to an increase in shrub species mix options across the development.
41. *Ecology* – Raise no objections.
42. *Environment, Health and Consumer Protection (Contaminated Land)* – Raise no objections. A planning condition is suggested requiring the submission of a verification report upon completion of the development.
43. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections. The proposed development falls outside the scope of the Technical Advice Notes.

PUBLIC RESPONSES:

44. The application was advertised within the press, on site and letters were sent to neighbouring properties. At the time of writing no representations were received from local residents.

APPLICANTS STATEMENT:

45. The application site forms part of the former LG Philips (Phase 2) employment site, which lies within the eastern part of the Belmont Industrial Estate, Durham. Phase 1 of the redevelopment of the site has been completed following the grant of planning permission for the erection of 10 office buildings and a single restaurant unit, with the units are almost fully occupied.
46. The site subject of the current application forms part of Phase 2 of the redevelopment and planning permission for the provision of approximately 37,500 sq.m of B1 office floorspace, granted consent in 2008, part of which featured the erection of 5no. office blocks granted consent in 2015. In the face of changing market conditions, the landowner has sought to vary the type and format of employment floorspace to be provided across the site in recent years through a number of planning applications relating to different parts of the wider site.
47. The current application proposals will only result in a modest increase in office floorspace compared to that approved in 2015 for the 5no. office blocks through the replacement of an approved two-storey office block with a three-storey unit. The proposed modest uplift in floorspace will not give rise to an increase in vehicular movements that would have an adverse impact on the safe operation of the local highway network. The proposed development will be served by a total of 47 No. car parking spaces, which is slightly higher than the suggested maximum car parking standards for office developments on business parks outlined in the County Durham Parking & Accessibility Standards.

48. The design approach that has been adopted follows the principles adopted by the earlier planning approval and the scale, massing, height, layout and materials of the proposed office block complements the consented development within the wider LG Phillips site and Belmont Industrial Estate. The proposed office block will be of a predominantly masonry blockwork construction (Colour – Pewter) with terracotta coloured blockwork infill panels. A double height glazed entrance will be provided to the principal elevation incorporating a curved entrance canopy. The building will have a mono-pitched roof finished with a ‘Trapezoidal’ profiled composite panel system (Colour – Dark Grey).
49. The proposed office block will represent the latest stage in the delivery of Phase 2 of this strategically important employment site ensuring that the substantial local employment benefits associated with the redevelopment of the site can continue to be realised in accordance with the objectives of the adopted Local Plan and NPPF. It has also been demonstrated that the application proposals represent an appropriate form of design, which complements the existing and approved built form in the locality and that the proposed development will not have an adverse impact on the safe operation of the local highway network.
50. The proposed development therefore represents a sustainable form of development that would accord with the adopted Development Plan in force for the area. We would therefore respectfully request that the LPA resolve to support the proposed development through the grant of planning permission subject to any conditions deemed necessary.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:
<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

51. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, landscape impact and layout and design, highway safety and access, neighbouring amenity, flood risk and drainage and other matters.

The Principle of the Development

52. The application site is identified for B1 (Business) use within the CDLP, and forms part of the wider LG Philips (Phase 2) site, which is a strategically important employment site that will deliver substantial benefits for the local economy and benefits from an implemented planning permission for approximately 37,500 sq. m of new office floorspace. The current application site benefits from planning permission for the erection of 5 office blocks with a total gross floor area of 2,785 sq. m and associated car parking. The principle of such development has therefore been clearly established. The current application proposals seek to replace a consented two-storey office block with a three-storey office building to meet the requirements of an identified end user.

53. The proposed office blocks therefore represent the latest stage of the delivery of Phase 2 of this strategically important previously developed employment site, ensuring that the substantial local employment benefits associated with the redevelopment of the overall site can continue to be realised.
54. The proposals include a D1 use which is office based training. Whilst D1 uses are not specifically listed within the CDLP Policy EMP5 it remains an office based activity very much akin to any activities which would occur under a B1 use. Therefore albeit there is an element of the proposal which has a degree of conflict with Policy EMP5 the proposal would maintain the objective of the policy of having appropriate office based employment/activities being housed at the site.
55. Though offices are identified as a "Main Town Centre" use within the NPPF the application site forms part of a CDLP allocation for office based businesses. Though evidence contained within the latest Employment Land Review is more up to date than that which informed Policy EMP5 at the time of its adoption, the Policy is still considered to have consistency with the NPPF which amongst its advice states that a range of suitable sites to meet main town centre use need should be allocated.
56. As a result, no objections are raised to the principle of the development having regards to the nature of the proposal, the designated prestige industrial nature of the site with no requirement for the proposals to comply with the sequential test approach for office site selection having regard to Part 2 of the NPPF.

Landscape Impact, Layout and Design

57. CDLP Policies Q1, Q2, Q5 and Q7 require new industrial development to take in to account of users requirements, minimise vehicle, pedestrian and cyclist conflict, be set within an appropriate landscaping scheme and in keeping with the surrounding area. These requirements are consistent with the NPPF which is supportive of specific design and landscaping requirements.
58. The proposed replacement three storey office building is considered by Design and Conservation officers to be appropriate to the site's location and surroundings, relative to their scale, massing, design and layout. The revised building would be in keeping with the design palette established on site. Landscaping proposals are similarly in keeping with the agreed scheme as consented by the original five office building scheme. The increase in building height would not, in the view of Landscape officers, result in an adverse visual impact upon the wider landscape and would not result in a cumulative impact in conjunction with other constructed office buildings on site. Therefore, on balance, and subject to a condition ensuring materials match the existing office development, the design and layout are considered to be acceptable, meeting the objectives of NPPF compliant Policies Q1, Q2 and Q7 of the CDLP and Part 7 of the NPPF.

Highway Safety and Access

59. The NPPF sets out at Paragraph 32 that safe and suitable access can be achieved for all people while setting out that developments should not result in cumulative impacts upon the highway network that would be considered severe. CDLP Policy T1 is consistent with the requirements of the NPPF to prevent detrimental impacts upon the highway network. Policy T10 requires developments to reduce vehicle parking to promote sustainable transport choices. Policy T20 requires new designs to accommodate sufficient cycle parking in new layouts. While Policies T2 and T20 can be considered fully consistent with the aims of the NPPF, Policy T1 cannot be afforded full weight in the decision making process as it is considered a more stringent test in comparison to the requirements of Paragraph 32 of the NPPF.

60. The Highway Authority is satisfied that the local road network can safely accommodate any additional traffic generated by a form of development that only differs slightly from the extant planning permission. The Council's car parking standards have been met by the revised proposals with an increase in available car parking. Sufficient cycle parking has been proposed onsite, with details of its exact design suitable for consideration by planning condition. No electric vehicle parking spaces are indicated upon the proposed site layout and so a condition is requested by the Highway Authority to provide some in perpetuity. Though an applicable policy, CDLP Policy T10 is considered inconsistent with the content of the NPPF as the NPPF is considered to permit a more flexible approach to parking standards and furthermore the parking standards which have informed Policy T10 are out of date. As a result the Policy is attributed very limited weight in the decision making process.
61. Wider network impacts have been addressed by the original planning consent for 37,500 sq. metres of office space in 2008 and mitigation required at the A1(M) / A690 junction has been installed. As a result, the Highways Authority have no objection to the increase in floorspace proposed as part of this application. Subsequently, it is concluded that this is a sustainable location for office use, a principle already established by earlier planning permissions, with acceptable connectivity to bus routes that traverse Belmont Road to the south and safe access for cyclists, offering transport mode choices other than the private car. Accordingly the objectives of Policy T1 and T20 of the CDLP and Part 4 of the NPPF are considered to have been met.

Neighbouring Amenity

62. The site is bordered to the north west and east by dual carriageway arterial roads (A690 and A1(M)), with housing fronting on to the A1(M) in Carville across the motorway from the application site (the closest being some 100m from site boundary). To the south Broomside Lane separates the industrial estate from the residential areas of Gilesgate and Gilesgate Moor approximately 700m from the application site.
63. Being located wholly upon an industrial estate, the impacts upon the amenity of neighbouring residential properties are likely to come from secondary impacts associated with the operation of the businesses such as vehicle movements or noise from plant and machinery. Paragraph 123 of the NPPF directs decision-makers to avoid noise from new development that would give rise to significant adverse impacts on health and quality of life, and where possible mitigate and reduce other adverse impacts. NPPG outlines that noise disturbance that causes significant observed adverse effects upon health and quality of life should be avoided by the planning process. The NPPG also offers quantification of the levels of impact and the weight each should be given in the decision making process. CDLP Policy U5 follows the direction of the NPPF by not allowing development that would have an unacceptable adverse impact upon the amenity of nearby and adjoining land and property.
64. Environment, Health and Consumer Protection officer's consider that the scale and nature of the development would not have an adverse impact upon the neighbouring properties. The nature of the proposed use would likely see predominant activity during normal office hours and so during a time where the surrounding noise climate will likely be at its highest. Limited HGV movements would be expected from the final use and so off-set impacts from vehicle movements as a result of the increased floorspace would be considered negligible.
65. As a result, the proposals would not cause unacceptable impacts upon residential amenity and so the development is in accordance with CDLP Policy U5, which is consistent with the NPPF, and Paragraph 123 of the NPPF.

Flood Risk and Drainage

66. Paragraph 94 of the NPPF directs decision makers to adopt a proactive strategy to mitigate against climate change, accounting for flood risk and water supply and demand. CDLP Policy U8a follows from the aims of the NPPF by ensuring that development should only be allowed where they include satisfactory arrangements for the disposal of foul and surface water. The site does not lie within an area considered to be at risk of surface water flooding, being positioned outside of flood risk areas as designated by the Environment Agency.
67. The proposed development forms part of the wider re-development. Construction work that has taken place already at the former LG Philips, whereby a previous drainage strategy for connection to the mains sewerage system had been agreed by the Council and Northumbrian Water. This development would be consistent with the approach previously agreed and so is considered to accord with the aims of CDLP Policy U8a, which is consistent with Part 10 of the NPPF. No increase in the potential for flooding is considered to result from the development in accordance with CDLP Policy U10 (partially NPPF consistent) and Part 10 of the NPPF.

Other Issues

68. The application site straddles areas of the Coal Authority's defined coal mining "high risk" and "low risk" areas. The Coal Authority object due to a lack of a coal mining risk assessment with the application. The applicant has been working with the Coal Authority resolve issues in regard to the presence of a mine shaft on the wider site and its mitigation which were still progressing at the time of writing of this report. Therefore it is proposed at this time to include a condition to require the submission of what would be a revised coal mining risk assessment to enable resolution of this matter.
69. Environment, Health and Consumer Protection officers raise no objections in relation to contaminated land. However, a condition requiring the submission of a validation statement after completion of the development should be imposed on any planning permission.
70. The area of the proposed development is already part of a wider building site and currently takes the appearance of such a site. As a result, of the application site being centrally located within the building compound area, no vegetation or habitat is present on site and so the Council's Ecology officer has raised no objections to the proposals. There is no conflict with CDLP Policy E16 (NPPF consistent) or relevant sections of Part 11 of the NPPF as a result.
71. CDLP Policy Q15 requires new development of this scale to provide public art within the application site to improve design and layout of the scheme. The proposals form part of a larger previously approved development under which a scheme is controlled by way of condition. Therefore, there is no further requirement to control this aspect as part of this further application.

CONCLUSION

72. The acceptability of business development in this location has been established by earlier planning permissions. The site is identified within the City of Durham Local Plan for B1 (Business) and B2 (General Industry). This proposal represents a modest change to an approved development which would encourage economic investment by providing enhanced floorspace flexibility for potential operators. The D1 training centre use is considered akin to the office based B1 proposals which the CDLP accepts on the site and no objections to its inclusion in the proposal are raised.

73. The position of the proposed building within the industrial estate against the back drop of similar structures, with which the general design ethos and palette of materials has been shared, reduces the visual impact of the development.
74. No design, landscape, highways, drainage, or other material issues are raised, with issues surrounding legacy coal mining and contaminated land controlled by way of planning condition.
75. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. In this instance it is considered that the CDLP is not absent, silent or out of date having regards to the nature of the development and the relevant policies against which it should be assessed. In such instances Paragraph 14 of the NPPF advises that the presumption in favour of sustainable development means that development proposals which accord with the development plan should be approved without delay (unless material planning considerations indicate otherwise). Likewise, and in accordance with Paragraph 12 of the NPPF, development which conflicts with a development plan should be refused unless, again material planning considerations indicate otherwise.
76. Despite the element of conflict with CDLP Policy EMP5 it is considered no harm would occur as a result of this and the proposals are acceptable.
77. The proposal has generated no public interest with no comments received at the time of writing.

RECOMMENDATION

That the application is **APPROVED** subject to the following conditions:

Time Full

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Plans

2. The development hereby approved in shall be carried out in strict accordance with the following approved plans and documents :-

Plan	Drawing No.	Date Received
Proposed Location & Site Plans	648-06-1375	26 Feb 2018
3 Storey Proposed Elevations	648-06-1326 E	26 Feb 2018
Finchale House Ground Floor Plan	648-06-1366 B	26 Feb 2018
Finchale House First Floor Plan	648-06-1367 B	26 Feb 2018
Finchale House Second Floor Plan	648-06-1369 B	26 Feb 2018
Private Drainage Plan	H76033-D-014 C	9 Mar 2018

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies E16, EMP5, T1, T10, T20, Q5, Q6, Q7, Q15, U5, U8a, U10 and U14 of the City of Durham District Local Plan and parts 1, 2, 4, 7, 10, 11 and 12 of the NPPF.

Coal Mining

3. No development shall take place until a coal mining risk assessment/investigation into the coal mining legacy issues at the site has been submitted to and agreed in writing by the Local Planning Authority. In the event that such submissions require the results of an intrusive site investigation and remedial measures to be undertaken, no development shall take place until those intrusive site investigation/remedial measures have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved details.

Reason: To ensure the site is safe and stable to accommodate the proposed development in accordance with Paragraphs 120 and 121 of the NPPF. The condition is required to facilitate the resolution of mitigation measures before building work commences.

External openings, vents and flues

4. Prior to the occupation of the building hereby approved, details of all flues, vents, and extracts shall be submitted to, and approved in writing by the Local Planning Authority. Thereafter implementation shall be carried out in accordance with the approved details, and all equipment operated and maintained in accordance with manufacturers' instructions.

Reason: In the interests of visual amenity in accordance with Policy Q7 of the City of Durham Local Plan and Part 7 of the NPPF.

Cycle Parking

5. Prior to the occupation of the building hereby approved, details of secure cycle parking shall be submitted to and approved in writing by the local planning authority. Thereafter implementation shall be in accordance with the approved details.

Reason: In the interests providing sustainable transport choice, in accordance with Policy T20 of the City of Durham Local Plan and Part 4 of the NPPF.

Electric Vehicle parking

6. Prior to the occupation of the building hereby approved, electrical vehicle charging points shall be installed and operational within the site, full details of which shall be agreed in writing with the local planning authority. The charging points shall be retained thereafter in perpetuity.

Reason: In the interests of reducing carbon emissions, in compliance with Part 10 of the NPPF.

Landscape implementation and management

7. Prior to the occupation of the building hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall include details of hard and soft landscaping, planting species, sizes, layout, densities, numbers, method of planting and maintenance regime, as well as indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. Thereafter implementation shall take place in accordance with an agreed timetable scheme.

Reason: To meet the objectives of Policy Q7 of the City of Durham Local Plan and Part 8 of the NPPF.

External Materials

8. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing office buildings elsewhere on the development in terms of colour, texture and size.

Reason: In the interests of the appearance of the area and to comply with Policy EMP5 of the City of Durham Local Plan 2004.

Land contamination

9. Prior to the occupation of any buildings hereby approved a Phase 4 Verification Report (Validation Report) outlining details of any soil importation on to the site shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- Conservation of Habitats and Species Regulations 2017
- National Planning Practice Guidance
- City of Durham Local Plan
- Statutory, internal and public consultation responses



Planning Services

DM/18/00608/FPA

Erection of a three-storey office and training centre (Use Class B1 / D1) with access, car parking, delivery / service bay.

Former Phillips Components Ltd, Belmont Industrial Estate, Durham, DH1 1TH

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Comments

Date May 2018

Scale Not to scale

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00225/FPA
FULL APPLICATION DESCRIPTION:	Gas fuelled capacity mechanism embedded generation plant to support the National Grid
NAME OF APPLICANT:	Enso energy Limited
ADDRESS:	Land To The North Of Hackworth Road, North West Industrial Estate, Peterlee
ELECTORAL DIVISION:	Easington
CASE OFFICER:	Chris Shields, Senior Planning Officer, 03000 261394 chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application site measures 1.55 Hectares (ha) in area and is located to the north of North West Industrial Estate, Peterlee. The site is currently part of an agricultural field. The B1283 road runs 400m to the north of the site. To the south and east of the site is an existing solar farm.
2. The nearest residential properties to the site are located at Holme Lea 650m to the north east, Cow Close Farm and Calf Close Farm 550m to the north, Moor House Farm 700m to the north west, West Moor Farm 1km to the west. There are no heritage assets within the vicinity of the site and the site is not within any ecological or landscape designations. There are two connected public rights of way approximately 750m to the west of the site, these are Footpaths No's 10 and 11 (Easington Village). The site is within a Coalfield Low Risk Development Area.

Proposal

3. The proposed development is for the installation and operation of an Embedded Distributed Power (EDP) plant that would generate and deliver electrical power to the Grid. The facility would provide balancing services to National Grid to assist in ensuring the future security of the country's electricity supply. The development would consist of 20 containerised gas generator sets, 20 transformers, substation compound and associated cabins, switchgear and welfare cabins, underground cabling, perimeter security and acoustic fencing and CCTV, access track and internal service road.
4. The gas generators would be housed within containers measuring 3m wide, 12m in length and with a height of 4m. Additional equipment would be mounted to the containers, including the exhaust flues which would have a total height from the ground of 7m. The switchgear cabin would measure 12m by 3.2m with a height of 4m.

5. The proposed development would provide 40MW of gas generated power, fuelled by gas that would be fed to site by pipeline from the nearby gas main located to the west of the site. The batteries would be charged with power from the gas engines when there is no demand from the grid. The generator engines would consist of 2MW units located within individual modular acoustic enclosures, which are constructed of galvanised steel protected by polyester powder coated paint.
6. The proposed development would operate for approximately 2000 hours per year, equating to approximately 23% of the time. The generators would operate whenever called upon by the National Grid but as electrical demand is greatest in the morning and early evening this is when the facility would be most likely to be delivering power to the grid.
7. The proposed compound would be secured by up to a 4m high acoustic fence and 2.4m wire mesh perimeter fencing, pole mounted CCTV cameras (2.5m in height) would also be provided at appropriate intervals along the proposed boundary fence.
8. The site would be accessed from the B1283 to the north utilising an existing junction that the new site access track would connect to.
9. This application is being reported to Planning Committee as it is classed as a major development.

PLANNING HISTORY

10. The site is undeveloped and has no planning history, however, the land to the south and east has been developed for a solar farm which was approved in 2016 (DM/15/02290/FPA).

PLANNING POLICY

NATIONAL POLICY

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
12. In accordance with Paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below. The following elements of the NPPF are considered relevant to this proposal;
13. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

14. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
15. NPPF Part 7 – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
16. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
17. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; 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; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

18. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality, flood risk and coastal change, climate change and noise.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

District of Easington Local Plan (DELP) adopted 2001

19. *Policy 1 – General Principles of Development* – permits development that accords with the principles of sustainable development together with any benefits to the community and local economy.

20. *Policy 3 – Protection of the Countryside* – defines development outside settlement boundaries as in the countryside. This is not permitted unless allowed for by other policies.
21. *Policy 18 – Species and Habitat Protection – Species And habitat Protection* – precludes development that would have a significant adverse effect on protective species or their habitat without special justification and mitigation.
22. *Policy 35 – Design and Layout of Development* – requires the design and layout of development to embody the objective of energy conservation, reflect the scale and character of the area, be screened appropriately where required, and have no serious amenity impact.
23. *Policy 36 – Design for Access and the Means of Travel* – requires the design and layout of development to provide (inter alia) safe and adequate access capable of serving the amount and nature of traffic to be generated.
24. *Policy 74 – Footpaths and other Public Rights of Way* – requires public rights of way to be (inter alia) protected from development.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Easington District Local Plan)

RELEVANT EMERGING POLICY:

25. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

26. *Highway Authority* – has raised no objections to the proposal but has requested that conditions be imposed to require details of on site parking and the access with the B1283 to be submitted prior to the commencement of development.
27. *Environment Agency* – has raised no objections to the proposal and has provided advice to the applicant in respect of environmental permitting.
28. *Drainage and Coastal Protection* – Raise no objection provided that outstanding design information relating to surface water management is provided prior to development commencing.

INTERNAL CONSULTEE RESPONSES:

29. *Archaeology* – has raised no objections to the proposals.
30. *Environment, Health & Consumer Protection (Noise Action Team)* – has raised no objections to the proposals stating that development would comply with the thresholds set out in the Technical Advice Notes (TANs) but has requested the night time noise limit be controlled by condition and that the acoustic fence be constructed of a material with a density greater than 10kg/m².
31. *Environment, Health & Consumer Protection (Air Quality)* – Raise no objections noting that the maximum modelled level of carbon monoxide at nearest residential dwellings is well below 10% of the short term air quality objective. Advice is also provided on the requirement for an Environmental Permit.
32. *Landscape* – No objections are raised but it is requested that a landscaping scheme be submitted for the creation of a tree screening belt on the northern and western boundaries and also a specification for the access track material.
33. *Ecology* – No objections are raised although a condition is requested to secure a habitat creation and management plan for biodiversity enhancement on site.
34. *Access & Rights of Way* – has raised no objections to the proposal and provided an informative for development that may affect a Public Right of Way.

PUBLIC RESPONSES:

35. The application has been advertised by means of individual notification letters, site notice and press notice.
36. Two letters of objection have been received from neighbouring residents. The issues raised include noise, traffic from construction and maintenance of the development, visual impact and changes to the plans.

APPLICANTS STATEMENT:

37. Enso Energy is a highly experienced developer of energy projects. Our core business includes:
 - the development of fast response energy generation and energy storage projects to support National Grid balance the supply and demand of electricity in the UK, and
 - the development of energy generation projects for large energy users to a provide secure and cost effective energy supply for their business.
38. We work across a range of energy technologies to develop projects that generate and supply energy for export to the national grid, or for direct consumption by business.
39. We are advocates of sustainable energy and are playing our part to ensure that the UK has improved energy security, continues the transition to low carbon generation and supply, and provides the lowest cost energy solutions that are practically and currently available.
40. Our application for the development of a gas peaking generation facility at Durham Rd, Peterlee is an example of our plan to develop a facility that will export electricity to the national grid during periods of peak demand. While this is a relatively small scale development, facilities such as this play an important role in balancing the supply and demand of electricity in the UK.

41. The site was selected as it met all of the critical parameters that are required to support a development such as this. It provides a feasible connection to both the gas and electricity networks, has a supportive landowner, is sufficiently removed from any residential receptors and other sensitive receptors and would result in minimal environmental impacts.
42. The development is consistent with the Government's objective to ensure that the UK continues to support the transition to a low carbon future and a secure, reliable and efficient supply of electricity. The application has also been assessed as being acceptable when assessed against the local and national planning policies and objectives.
43. The development will deliver local benefits. There will be direct and indirect benefits to the local economy during the construction and operation of the facility, and the energy security provided from the connection of the facility which will be an "embedded" or locally connected plant, integrated in to the local electricity network. Power from the facility will be used locally first, whenever there is demand. During periods of peak demand, areas hosting local backup generation will be generally at the lowest risk of disturbances to their power supply.
44. Based on the above, the information provided in support of the application, and the case officer's recommendation to approve the application, we humbly request the Committee to grant our request for approval to proceed with the development.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, landscape, access and traffic, residential amenity, flooding and drainage, ecology, agricultural land, access and rights of way and other issues.

Principle of Development

46. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Easington District Local Plan (EDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
47. The EDLP was adopted in 2001 and was intended to cover the period to 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.

48. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - i. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii. specific policies in this Framework indicate development should be restricted.
49. The key policies for the determination of this application are EDLP Policies 1 (General Principles of Development) and 3 (Protection of the Countryside). The site is located within an agricultural field and which clearly forms part of the open countryside. Policy 3 states that development outside of defined 'settlement limits' will be regarded as development within the countryside and will not be approved unless allowed by other policies. Due to this very restrictive approach the Policy is considered to be only partially consistent with the NPPF, which does not place strict barriers on development in the countryside. Instead, emphasis is placed upon balancing harm of development against the prospective benefits. Policy 1 is considered to be consistent with the NPPF in most respects but is also overly prescriptive in terms of locational criteria. Policies 1 and 3 are therefore considered out-of-date for the purposes of Paragraph 14 of the NPPF, and the weight to be afforded to the policies reduced as a result. The prescription of how much weight should be given to these policies in the decision is a matter for the decision-maker, having regard to advice at Paragraph 215 of the NPPF.
50. The purpose of the proposed development is to rapidly meet short term demands from the electrical grid. The location was chosen as it provides close connection points to a suitable gas supply and electrical connection with few constraints. This development is one of many proposed nationally to address capacity shortfalls in the grid due to peak demands, the unpredictability of renewable energy and the inability for large centralised power stations to react quickly.
51. The proposed development could be located on an industrial estate but this would occupy potential employment land with an automated facility that requires minimal human intervention to operate. The proposed site offers nearby connections for gas to fuel the generators and to an electrical substation for exporting the produced electricity. Operating in tandem with the adjacent 5MW solar farm the proposal would create a very resilient local energy supply.
52. The proposal would conflict with the EDLP Policy 3 and the locational criteria set out in Policy 1, however, the benefits of the development in terms of energy security through decentralisation of power stations and the support it provides for renewable energy development are sufficient to outweigh the encroachment into the countryside. The creation of a decentralised energy supply would accord with Part 10 of the NPPF.

Landscape

53. Paragraph 109 sets out key areas for conserving and enhancing the natural environment. This is reflected in EDLP Policy 1, which seeks to protect landscape character.

54. The application site is the south west corner of an agricultural field. There is a gentle rolling rise to the topography from the west to east with the application site visible in ranged views from the B1283 in the west and Footpath No's. 10 and 11 (Easington Village) to the south and west, respectively. The site is currently a green field used informally for grazing of horses. The field has low clipped hedges on the boundaries that provide limited screening given the distance between them and the application site and the overall topography. However, from the key viewpoints of the footpaths and road the proposal would be viewed against the backdrop of the 5MW solar farm which is prominent feature in this primarily rural landscape.
55. The design and appearance of the development would be entirely utilitarian with most elements housed within containers, kiosks or cabins. Full details of colours and finishes would be agreed through condition.
56. The proposal would incorporate a 4m high acoustic fence around the periphery of the developed area with a 2.4m high galvanised wire mesh security fence outside of this. The generator containers and other plant would therefore be fully screened from outside of the site apart from the exhaust stacks.
57. Landscape officers have considered the proposal and have requested tree planting on the northern and western boundaries in order to soften these views. In addition it is requested that the new access track be constructed from unconsolidated materials with a dark colour. Subject to these conditions it is considered that the proposal would have minimal harm to the landscape and would deliver some improvements to the site. The proposal would therefore accord with EDLP Policy 1 and Part 11 of the NPPF.

Access and Traffic

58. Paragraph 32 of the NPPF states plans and decisions should take account of whether: opportunities for sustainable transport modes have been taken up; safe and suitable access can be achieved; improvements can be undertaken to limit significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. EDLP Policy 1 requires developments to incorporate satisfactory and safe provision for pedestrians, cyclists, public transport, cars and other vehicles. The objectives of Policy 1 are expanded upon in Policy 36 which requires development to include a safe and adequate access capable of serving the amount and nature of traffic to be generated. Policy 36 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
59. The site would be accessed from the B1283 via an existing access road that currently serves the farm buildings, fields, solar farm and reservoirs. The proposed development would create a new track from this access to the development site. Objections have been raised by local residents claiming that this is a dangerous section of road and also that they control and use the proposed access themselves for their farm business, which would be disturbed by the construction and maintenance traffic.
60. Highways officers have considered the proposal and raised no objections in principle but have requested conditions to require details of parking and the design of the access to the site of the B1283 to be submitted prior to the commencement of development.

61. Highways officers have advised that there have been no recorded road accidents on the section of the B1283 and whilst residents have stated that vehicles using the road travel fast, this would not be out with the 60mph speed limit. The issue regarding the access is complicated by a section of legacy adopted highway and land ownership boundaries. The owners of the farm buildings adjacent to the proposed access with the B1283 claim ownership of the existing section of track that would be used, however, this is entirely within a section of adopted highway. Whilst there may be disagreements between the applicant and adjacent land owner over access rights it is considered for the purposes of planning that the applicant has demonstrated that there is a safe and adequate access route between the site and the adopted highway.
62. Whilst the development would generate a degree of construction traffic for the 10 month construction period it would not be unacceptable in this location. Following construction the site would be automated and would only be attended for a short period each day for maintenance purposes. A condition is recommended to ensure that vehicles accessing the site are adequately cleaned before leaving to ensure that debris is not carried onto the public highway. Subject to this condition the proposal is considered to accord with EDLP Policies 1 and 36 and Part 4 of the NPPF.

Residential Amenity

63. The nearest residential properties to the site are located at Holme Lea 650m to the north east, Cow Close Farm and Calf Close Farm 550m to the north, Moor House Farm 700m to the north west, West Moor Farm 1km to the west. Objections have been received from the two nearest properties in respect of noise.
64. Paragraph 120 of the NPPF states that planning decisions should ensure that new development is appropriate for its location, taking into account the effects of pollution on health, general amenity and the potential sensitivity of the area to adverse effects from pollution. EDLP Policy 1 requires that development should safeguard the visual and general amenity of people living and working within the vicinity of the site. This is supported by Policy 35 which requires the design and layout of development to have no serious adverse effect on the amenity of people and existing adjacent land uses in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. Policy 35 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
65. The proposed gas generators for the site have the potential to cause pollution through noise and exhaust emissions. The application is therefore supported by air quality and noise assessments. The air quality assessment considers the baseline conditions for the site and provides maximum (worst case) predictions for emission outputs for the site. This is then assessed against local air quality objectives and long and short-term impacts on human health. The air quality assessment concludes that impacts due to the operation of the proposed development would be insignificant. Environment, Health & Consumer Protection officers have considered the proposal and air quality assessment and consider that the development would have an acceptable impact.

66. The submitted noise assessment considers the baseline conditions for the area and provides predictions for the operation of the proposed plant, including generator and battery storage units, transformers and gas kiosk, for the site. The assessment considers the impact of the development on the nearest noise sensitive properties and includes a 4m high acoustic fence within the calculations. The assessment provides background noise levels from points close to the nearest noise sensitive properties and demonstrates that the predicted noise level from the generators at the nearest noise sensitive properties would range between 39dB and 40dB as a worst-case scenario which assumes all of the plant to be operating simultaneously. During daytime operation the noise levels would be between 4dB and 31dB below existing background noise levels. Whilst the plant is unlikely to operate during night time hours (2300 to 0700) it may occasionally do so. Environment, Health & Consumer Protection officers have considered the proposal and the noise assessment and consider that the development would be acceptable but requested that night time operation be restricted to 37dB during night time hours and that the density of the acoustic fence be greater than 10kg/m². In addition it is recommended that a condition be imposed requiring a construction management plan to ensure protection of residential amenity during the construction phase of the development.
67. Subject to the imposition of the conditions recommended above it is considered that development would provide an acceptable standard of residential amenity in accordance with EDLP Policies 1 and 35 and Part 11 of the NPPF.

Flooding and Drainage

68. Part 10 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 11 of the NPPF takes account of the impact of any development upon the natural environment.
69. The application is accompanied by a flood risk assessment (FRA) which identifies that the application site is located entirely within Flood Zone 1 and would increase the risk of flooding.
70. Drainage and Coastal Protection officers have considered the proposals and although no objections have been raised it is noted that the application does not provide details of surface water management measures and it is requested that these details be secured by condition. The Environment Agency has also raised no objections to the proposal.
71. Subject to the proposed conditions being adhered to, the proposed development would not lead to increased flooding and the site would be out of the floodplain area. The proposal is therefore considered to be in accordance with EDLP Policy 1 and Part 10 of the NPPF with regards to flood risk.

Ecology

72. The presence of protected species is a material consideration, in accordance with Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) and Paragraph 119 of the NPPF. In addition under the requirements of the Conservation of Habitats and Species Regulations 2017 (referred to as the Habitats and Species Regulations hereafter) it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England. Regulation 9(1) of the Conservation of Habitats and Species Regulations requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising their functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species licence from Natural England.

73. Paragraph 109 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible with Paragraph 118 stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. EDLP Policy 18 states that development which would significantly adversely effect, either directly or indirectly, any protected species or its habitat will only be approved where the reasons for the development clearly outweigh the value of the species or its habitat. Policy 18 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
74. An Ecological Survey including an extended Phase 1 habitat survey has been submitted in support of the application. The survey conducted fieldwork to check for the presence of protected species on the site. Several species of birds were noted during the survey but it was considered that the habitats within the site had low potential to support foraging and nesting. Evidence was found of three badger setts approximately 475m to the west of the site compound. This had been close to the original site access road but as this is now proposed to go north from the site the habitats would not be affected. This appraisal considers that the proposed development would have no significant adverse ecological impacts and has the potential to deliver ecological benefits with the incorporation of recommended enhancements. These enhancements include native hedge planting, installation of bird and bat boxes on the acoustic fence allowing the undeveloped areas of the site to be left unmanaged and allowed to develop into a field headland comprising of naturally established local plant species. Mitigation measures for the protection of birds and badgers during the construction phase are also proposed including standoff distances between works and identified badger setts and avoiding breeding seasons.
75. Ecology officers have considered the proposal and submitted Ecological Survey and agree with the recommended mitigation and biodiversity enhancement works. Officers requested a minor change to the management schedule for the new hedgerow as the original proposal to trim it in autumn would limit its ecological value. The applicant has agreed to this amendment.
76. Subject to the biodiversity enhancements being carried out it is considered that the proposal would create biodiversity enhancement to the site and would therefore accord with EDLP Policy 18 and Part 11 of the NPPF.

Agricultural Land

77. Paragraph 112 of the NPPF seeks to protect best and most versatile land, prioritising the use of lower quality land where it has been demonstrated that development of agricultural land is necessary. EDLP Policy 1 seeks to ensure the protection of best and most versatile agricultural land.
78. The proposed development would be located in the corner of an agricultural field and whilst the site area totals 1.55 ha, the area to be developed is slightly less at 1.18ha. An Agricultural Land Classification (ALC) assessment has been carried out for the site. The assessment includes a desktop study and fieldwork analysis with the conclusion that all of the soils on the site are Grade 3a. The site is therefore comprised of best and most versatile agricultural land.
79. Whilst the applicant has not demonstrated that there is an overriding need to locate the proposed development on best and most versatile agricultural land contrary to EDLP Policy 1 or Paragraph 112 of the NPPF, the overall loss (1.55 ha) is relatively small in the context of the surrounding area F. Therefore given the small site area relative to the surrounding land and benefit of local energy security it is considered that the conflict is not sufficient to justify refusal of the planning application.

Access and Rights of Way

80. Part 8 of the NPPF seeks to promote healthy communities with a key reference being towards the protection and enhancement of public rights of way and access. EDLP Policy 74 states that public rights of way will be protected from development or a suitable alternative provided. EDLP Policy 74 is considered to be consistent with the NPPF and can be given weight in the decision making process.
81. Footpath No's 10 and 11 (Easington Village) are located approximately 750m to the west of the site and whilst they would not be directly impacted by gas generators or compound, the underground connection to the gas main would run beneath Footpath No.11. In addition, there would be ranged views of the proposed development from the identified footpaths, however, the planting requested by Landscape officers would assist in mitigating any potential impact. The impacts of noise and air quality have not been specifically modelled in relation to the nearest footpaths, however, as they are at a greater distance to the nearest residential properties it is considered that any impact would be within acceptable thresholds. Access and Rights of Way officers have raised no objections and have provided advice in relation to utility installation in relation to PRow. It is considered that the proposal would not conflict with EDLP Policy 74 and Part 8 of the NPPF.

Other Issues

82. The site is located within Coal Mining Low Risk Development Area and as such standing advice would be provided to the applicant should planning permission be granted.
83. Objectors have raised concerns that the access to the site changed from being at West Moor Farm, as shown in the Design and Access statement, to the proposed access opposite Calf Close Farm. Whilst this may appear confusing the Design and Access statement is meant to be read as an evolution of the development and it is not uncommon for early plans to be included to show how the applicant arrived at the final design. The intended access is clearly shown on the site layout plan.
84. The proposal is of a type that would be subject to a permit required through the Environmental Permitting (England and Wales) Regulations 2010 which would regulate issues at the site relating to pollution control. There are powers to enforce should this not be complied with. The operator would require a Medium Combustion Plant Directive (MCPD) permit from the Environment Agency, complete with MCPD emission limit values, before operations can commence.
85. To ensure that the site is restored if the development becomes redundant a condition is recommended to require restoration of the site to greenfield if the plant is inoperative for a period of 6 months.

Planning Balance

86. This proposal is considered to be outside of any settlement boundaries and is contrary to EDLP Policies 1 and 3 in this respect. However, as a result of relevant policies being out of date, the acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits.

Benefits

87. The development would provide local energy security through decentralisation of power stations and would provide support for renewable energy development by picking up gaps in supply due to the unpredictability of wind and solar generation.
88. Development of the site would result in a net biodiversity gain as a result of a mixture of on-site habitat creation through tree and hedgerow planting and providing an undeveloped field headland that otherwise have been retained as improved grassland with limited ecological value.

Adverse Impacts

89. The development would result in residual landscape harm developing a greenfield site and extending to the built development into the countryside. The proposed hedgerow planting and tree screening proposed and limited visibility in the wider landscape would help reduce the visual impact of the scheme as a whole.
90. The development would result in the loss of agricultural land, however given the relatively small size of the site (1.55) this should not be considered an adverse impact even in the event that the land is best and most versatile.

CONCLUSION

91. The proposed development would provide a peaking power generation facility that would support centralised power stations by responding quickly to peak electricity demand. Going forward this would assist in providing a stable and reliable National Grid for both local and national requirements.
92. The proposal would conflict with locational criteria set out in EDLP Policies 1 and 3. However, in this case the NPPF, a significant material consideration, sets out that on the basis of the out-of-date nature of these Policies, that the presumption in favour of sustainable development is engaged and development is required to be considered in the context of Paragraph 14 of the NPPF, which states that the development should be approved without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
93. The proposal would constitute development in the countryside resulting in limited landscape harm and the loss of a small portion of best and most versatile agricultural land. Whilst utilitarian in appearance the proposal would be well screened both visually and acoustically from noise sensitive receptors. The loss of agricultural land in this instance would not be significant and, as mitigation, biodiversity enhancement has been offered through hedgerow creation, setting aside a small portion of undeveloped land and installing bat and bird boxes. In this case it is considered that there are no adverse impacts associated with the proposal and any residual harm would not outweigh the benefits of the development in terms of energy supply and security, support for renewable energy and biodiversity enhancement.
94. The proposal has generated some public interest, with letters of objection and support having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits.

RECOMMENDATION

That the application is **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

- Drawing No. 1382-PL-01 Rev. 7 'Planning Layout Plan'
- Drawing No. 1382-PL-02 Rev. 3 'Planning Layout Plan'
- Drawing No. ENS-STD-PL-13 'Containerised Gas Generator Plans and Elevations'
- Drawing No. ENS-STD-PL-15 'Transformer Plans and Elevations'
- Drawing No. ENS-STD-PL-16 'Welfare Cabin Plans and Elevations'
- Drawing No. ENS-STD-PL-17 'Containerised Switchgear Plans and Elevations'
- Drawing No. ENS-STD-PL-18 'Customer Substation GRP Plans and Elevations'
- Drawing No. ENS-STD-PL-20 'Security Fencing Typical Details'
- Drawing No. ENS-STD-PL-21 'Gas Governor Kiosk Plans and Elevations'
- Drawing No. ENS-STD-PL-22 '6m High Security Column Standard Details'
- Drawing No. ENS-STD-PL-24 'Spair Parts Container Plans and Elevations'
- Drawing No. ENS-STD-PL-45 'Control and Metering Room Plans and Elevations'
- Drawing No. ENS-STD-PL-46 'Marshalling Kiosk Standard Details'
- Drawing No. ENS-STD-PL-47 'Floodlight Column Standard Details'
- Drawing No. ENS-STD-PL-51 'Palisade Security Fence Standard Details'
- Drawing No. ENS-STD-PL-26 Rev. 1 'Acoustic Fencing Standard Detail'

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

3. The development hereby approved shall not be brought into use until a surface water drainage system has been installed in accordance with details to have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding from any sources in accordance with the Part 10 of the National Planning Policy Framework.

4. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014;

- Details of methods and means of noise reduction;
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operations for the loading and unloading of plant, machinery and materials;
- Details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic;
- Details of the erection and maintenance of security hoarding;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works; and
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The Construction Management Plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In the interests of protecting the amenity of neighbouring site occupiers and users from the impacts of the construction phases of the development having regards to Easington District Local Plan Policy 1 and Part 11 of the NPPF. Required to be a pre-commencement condition and the details of the construction management statement must be agree before works on site commence.

5. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 37dB(A) between 23.00-07.00 at the nearest noise sensitive premises; NML1, as specified within Sol Environment Ltd project issue number: SOL1801EE01_04NOISE dated January 2017. The measurement and assessment shall be made according to BS 4142: 2014.

Reason: To ensure residential amenity is protected from noise pollution in accordance with Easington District Local Plan Policy 1 and Part 11 of the National Planning Policy Framework.

6. The 4 metre acoustic fence shall have no gaps and shall be constructed of material with a density >10kg/m².

Reason: To ensure residential amenity is protected from noise pollution in accordance with Easington District Local Plan Policy 1 and Part 11 of the National Planning Policy Framework.

7. All vehicles leaving the site shall be sufficiently cleaned in order to ensure that mud, dirt, and treated or untreated waste is not transferred onto the public highway.

Reason: In the interests of residential amenity and highway safety in accordance with the Easington District Local Plan Policy 36 and Part of the National Planning Policy Framework).

8. Prior to the commencement of development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be agreed in writing with the Local Planning Authority and the development carried out in accordance with agreed details.

Reason: To ensure the development is carried out in accordance with the approved documents and in the interests of visual amenity (Easington District Local Plan Policy 1). Required to be pre-commencement in order to assess the appearance of the development.

9. Prior to the commencement of development details of on site parking and a 1:500 scale plan showing site access arrangements with the B1283 (as identified on Drawing No. 1382-PL-01 Rev. 7 'Planning Layout Plan') shall be submitted to the Local Planning Authority for agreement in writing. The approved access arrangements shall be implemented prior to the installation of any plant on site. The approved on site parking shall be made available prior to the development being brought into use.

Reason: In the interests of residential amenity and highway safety in accordance with the Easington District Local Plan Policy 36 and Part 4 of the National Planning Policy Framework. Required to be pre-commencement in order to inform the development of the site.

10. The development shall be carried out in accordance with the recommendations set out at Section 5 of the Ecological Survey carried out by Clarkson & Woods Ecological Consultants dated January 2018.

Reason: To provide biodiversity enhancements in accordance with Part 11 of the National Planning Policy Framework. Required to be pre-commencement in order to inform the development of the site.

11. Prior to commencement of development details of a landscaping scheme shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall make provision for native species tree belts on the northern and western boundaries of the site compound. The approved landscaping scheme shall be implemented on site in the first planting season following the development being brought into use. The tree planting shall be maintained and replaced as required for the life of the development.

Reason: In order to provide landscape enhancement and screening for the development in accordance with Easington District Local Plan Policy 1 and Part 11 of the NPPF. Required to be pre-commencement in order to inform the development of the site.

12. In the event that the gas generators and battery storage are inoperative for a period of 6 months or longer the development hereby approved shall be removed and the site restored to green field within 18 months from the time at which it became inoperative.

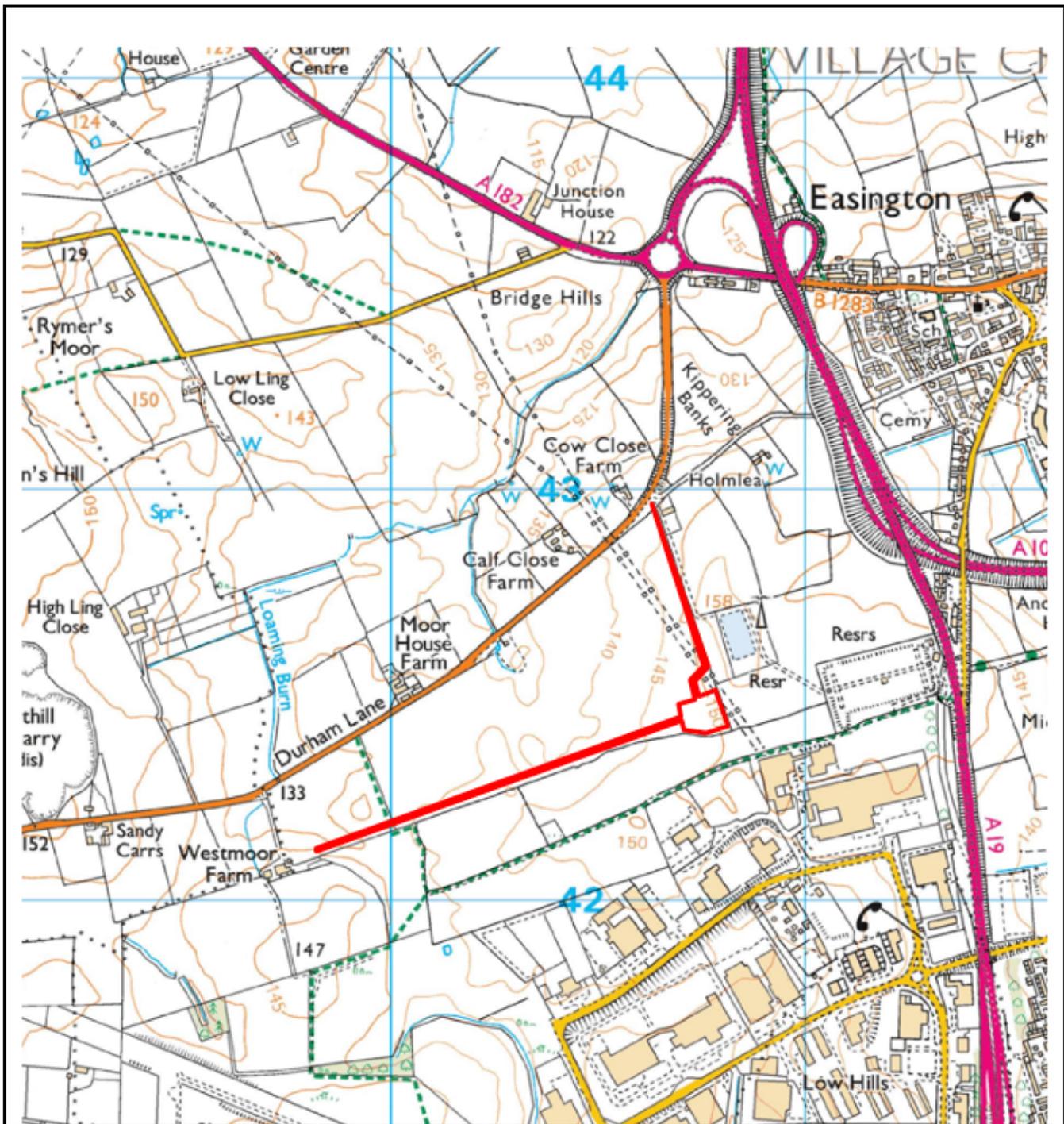
Reason: In the interests of visual amenity and pollution prevention in accordance with Easington District Local Plan Policy 1 and Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance notes.
- Easington District Local Plan 1997.
- Statutory, internal and public consultation responses.



Planning Services

DM/18/00225/FPA

Gas fuelled capacity mechanism embedded generation plant to support the National Grid at land To The North Of Hackworth Road, North West Industrial Estate, Peterlee

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Comments

Date May 2018

Scale NTS

PLANNING DEVELOPMENT MANAGEMENT PERFORMANCE SUMMARY 2017/18

Statistical information is collated on a quarterly basis on the performance of core elements of the Planning Development Service, as part of the Council's corporate performance management framework.

In particular, information on the numbers and types of planning applications received and the timescales taken for determination are collated and monitored and compared with other local planning authorities in the region. More detailed information is also collected and analysed about key elements of the processes involved, to help inform and improve the overall delivery of the service.

Accordingly, it is therefore appropriate that key information about planning performance is shared with our planning committees in their role as decision-makers. The information provided details the headline performance information for the period April 2017 to March 2018 (with the exception of comparator authority data which is for January to December 2017).

Headline facts (2016/17 figures in brackets for comparison)

- 2747 (2803) planning applications were received of which 136 (135) were for major development.
- The number of 'major' planning applications determined within the statutory 13 week timescale this quarter was 97.6% (93.2%).
- The number of 'minor' planning applications determined within the statutory 8 week period timescale was 89.8% (88.8%).
- The number of 'other' planning applications determined within the statutory 8 week period timescale was 96.3% (93.8%).
- The number of all categories of planning application determined within the statutory timescale was 94.5% (92.3%).
- The number of Mineral and Waste applications determined within the statutory timescale was 100%.
- There were 52 appeal decisions received, of which 15 were allowed.

In broad terms the headline facts above show an improvement in performance across key indicators for 2017/18 over 2016/17.

The tables below show the key results in more detail and with a breakdown reflecting the area planning teams which in turn serve the relevant planning committees. More detailed information relating to all the performance indicators measured by the service can be obtained upon request from Stephen Reed, Planning Development Manager.

PLANNING APPLICATIONS

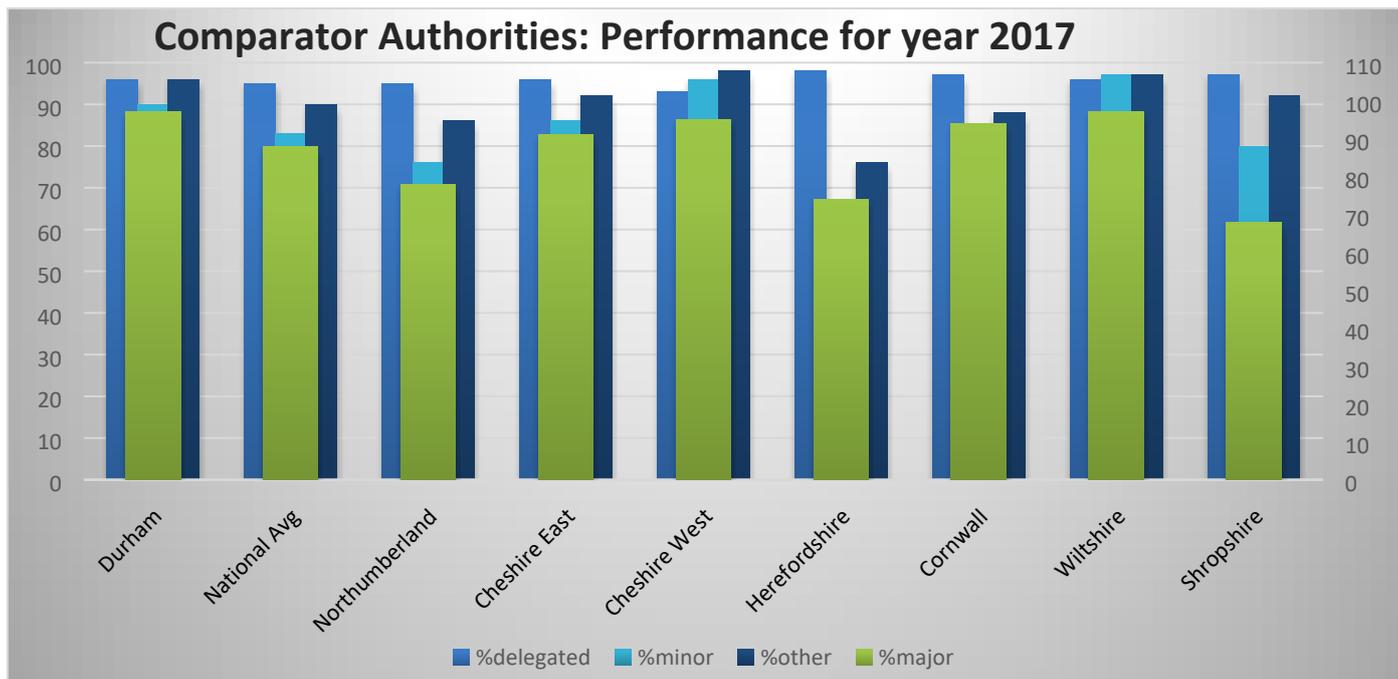
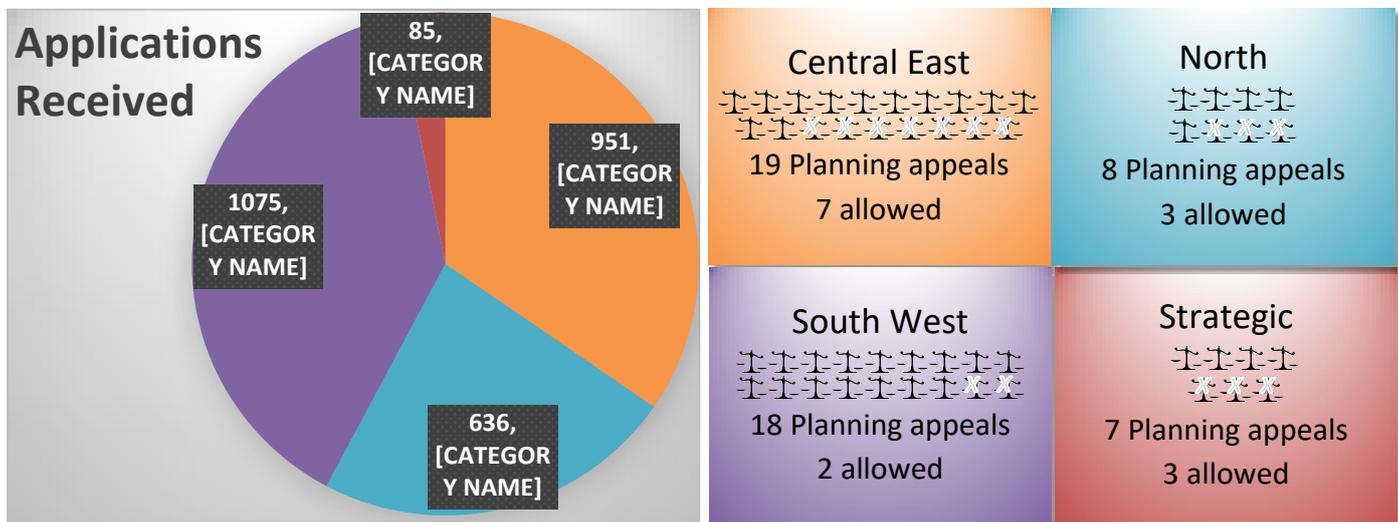
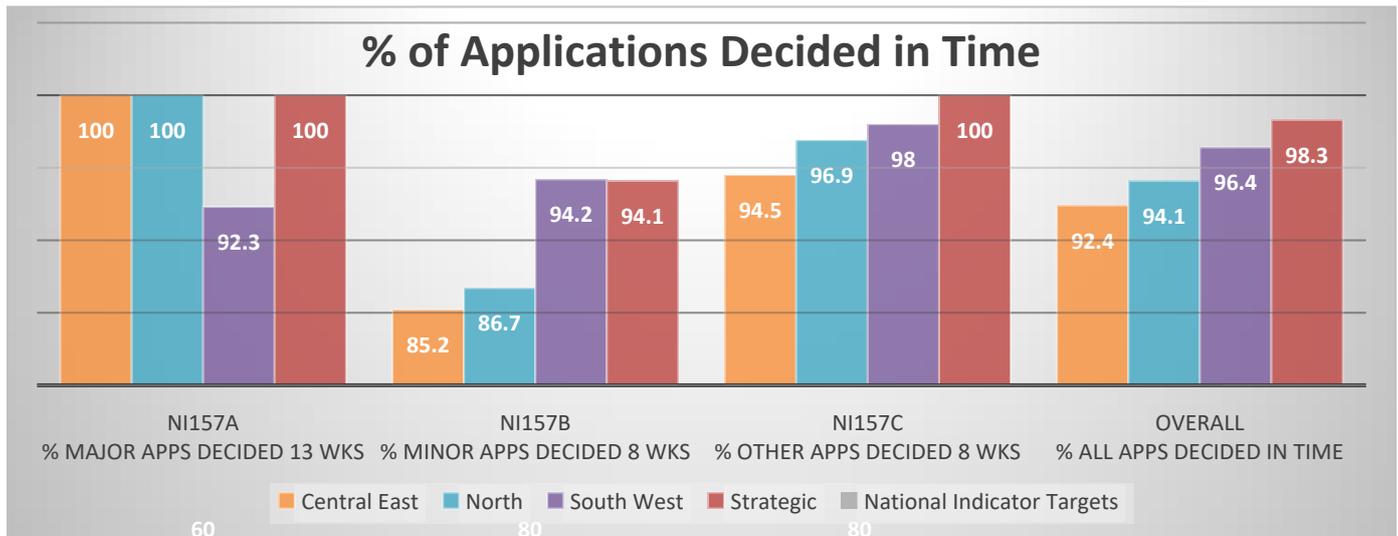


Figure 1(Source –CLG Live planning statistics table 132)

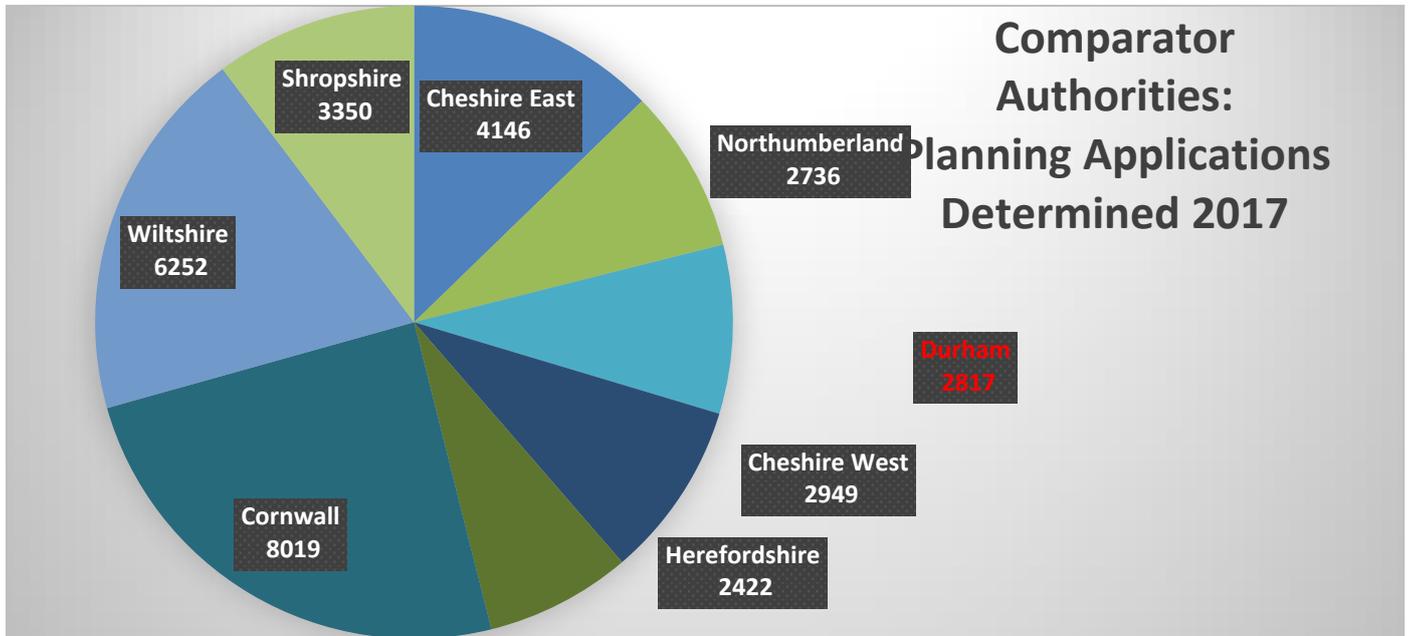
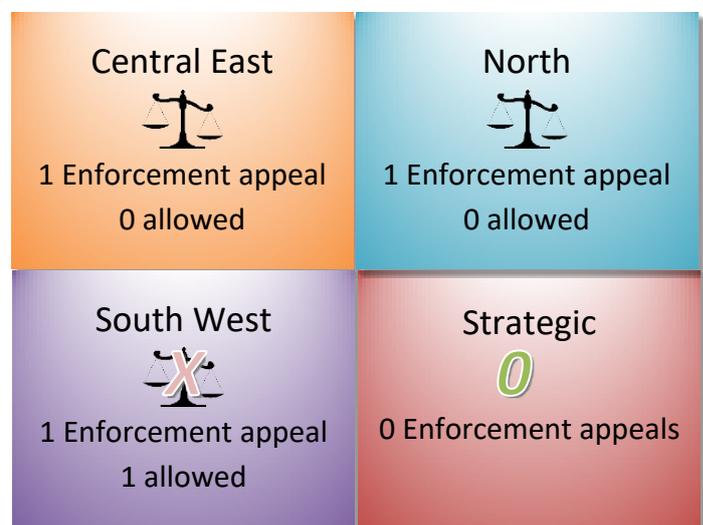
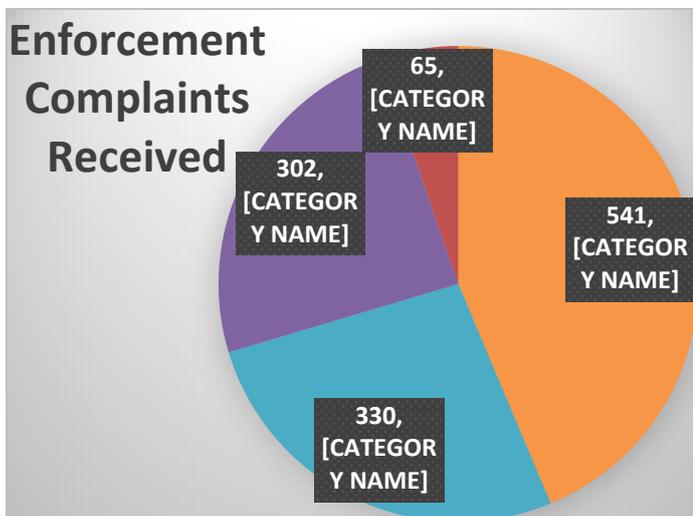
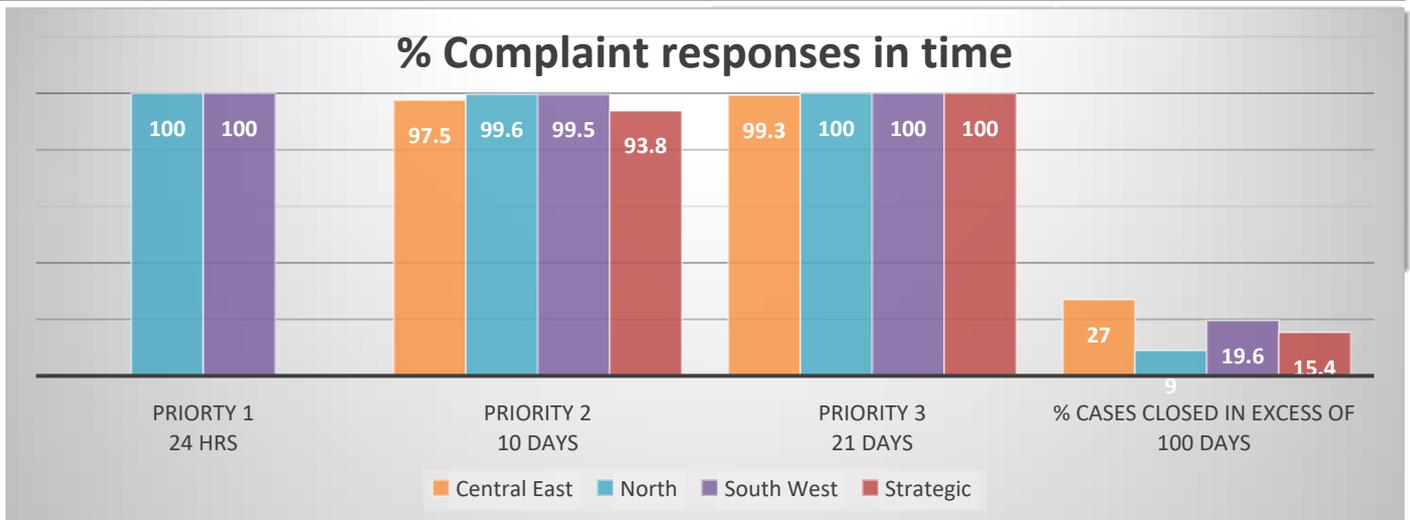


Figure 2(Source –CLG Live planning statistics table 134)

ENFORCEMENT



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