



County Planning Committee

Date Tuesday 3 November 2020
Time 9.30 am
Venue Remote Meeting - This meeting is being held remotely via Microsoft Teams

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meeting held on 2 September 2020 (Pages 3 - 12)
5. Applications to be determined
 - a) DM/20/01499/WAS - Enterprise Point 1, Enterprise City, Green Lane Industrial Estate, Spennymoor DL16 6JF (Pages 13 - 34)

Change of use to clinical waste treatment and transfer facility, including autoclave, air condenser, boiler, shredder, compaction units, bin washes and extraction flue.
 - b) DM/20/01334/VOC, DM/20/01333/VOC & DM/20/01332/VOC - Former Millburngate House, Framwelgate Waterside, Durham DH1 5TL (Pages 35 - 86)

Variation of condition 29 of planning permission DM/18/00896/VOC, condition 20 of DM/18/00894/FPA and condition 23 of DM/18/02924/FPA so as to permit works between 7am-8pm Monday-Friday and 8am-6pm on Saturdays until 13/05/2021 (Amended Description)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration
7. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information

Part B

Items during which it is considered the meeting will not be open to the public (consideration of exempt or confidential information)

8. 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
26 October 2020

To: **The Members of the County Planning Committee**

Councillor J Robinson (Chair)
Councillor F Tinsley (Vice-Chair)

Councillors J Atkinson, A Bell, J Clare, K Corrigan, K Hawley,
I Jewell, C Kay, A Laing, G Richardson, A Shield,
J Shuttleworth, A Simpson, M Wilkes and S Wilson

Contact: Ian Croft

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DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held via Microsoft Teams on **Wednesday 2 September 2020 at 9.30 am**

Present:

Councillor J Robinson (Chair)

Members of the Committee:

Councillors J Atkinson, A Bell, J Clare, K Corrigan, I Jewell, G Richardson, J Shuttleworth, A Simpson and M Wilkes

1 Apologies for Absence

Apologies for absence were received from Councillors K Hawley, A Laing, A Shield and S Wilson.

2 Substitute Members

Councillor M Davison substitute for Councillor S Wilson

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The minutes of the meeting held on 28 July were confirmed as a correct record and signed by the Chairman.

At this point the Chair welcomed Mr J McGargill, Highway Development Manager who had requested to make a short statement in relation to comments made by himself at the previous meeting.

The Highway Development Manager advised that he had made an error in a statement he made at the previous meeting, whereby he had stated that he had been accused of lying to the committee by the Local Member in relation to application DM/20/00669/FPA Land to the east of Mill Lane, Sherburn. He advised that upon reflection this was found to be untrue and it had in fact been a constituent who had made the accusation. He had therefore apologised to the Local Member and felt it was also appropriate to apologise to both the Chair and the committee. He furthermore commented that his comments did not influence debate, nor the decision of the committee however, he did acknowledge that his comments were unnecessary and unprofessional.

5 Applications to be determined

a DM/20/01201/FPA - Land to the south of Longedge Lane Eliza Lane Consett DH8 9HB

The Senior Planning Officer, Colin Harding, 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 and plans of the proposed layout and access.

It was explained that the application for 37no holiday lodges (including 9no highly accessible lodges and 1no manager's lodge and Play Barn with associated Farm Experience, was situated some 400m to the north east of the site beyond Longedge Lane and the site itself formed part of a larger area of agricultural land bounded by Longedge Lane, Eliza Lane and Millershill Lane. The only residential properties within the area were located to the south west and north western points of the application site.

The Senior Planning Officer went on to advise that the site lay approx. 300m to the south east of the remains of a Roman aqueduct which was a scheduled monument. Furthermore, the Roman Fort Longovicium lay approx. 4km to the east of the site.

Further details were provided to the proposed livestock/petting farm experience, play area, sensory room and ancillary café hosted within the Haystax Play Barn. In addition, it was noted that 9 of the proposed holiday lodges would be for rental and would be designed to be highly accessible. The remaining 27 lodges would be available for sale, with an expectation that the profits would crossfund capital costs of the farm experience and rental lodges. Each lodge would have 2no. car parking spaces and in addition, a small car park associated with the Play Barn would be provided, as well as a coach/drop off area.

The Senior Planning Officer went on to explain that the project was proposed to be delivered over a 10 year period and a photomontage (provided by the applicant) of a limited number viewpoints taken over a period of 15 years were shown to demonstrate how the site would appear from Longedge Lane and Eliza Lane.

It was noted that 68 letters of objection and 301 letters of support had been received. In addition, Lanchester Parish Council had submitted an objection to the application on a range of issues including; impact upon the countryside, residential occupation of a manager's lodge, archaeology and amenity and traffic.

In conclusion he advised that taking into account the acceptability of the application considered in the context of the planning balance test contained within the NPPF and in view of Derwentside District Local Plan policies being considered, as a whole, to be out of date, it was considered that any adverse impacts arising would not significantly and demonstrably outweigh the recognised social and economic

benefits of the development and therefore, in accordance with Paragraph 11d of the NPPF, the application should be granted planning permission.

The Chair thanked the Senior Planning Officer for his presentation and welcomed Parish Councillor Mr D Friesner speak on behalf of Lanchester Parish Council in objection to the application.

Mr Friesner started by thanking Officers for agreeing to the request to have the application determined by committee and for the opportunity to address such committee.

He advised that Lanchester Parish Council objected to the application on several material grounds as stated including; unacceptable development in the open countryside; new buildings on open farmland; the large scale, size, integration and setting of the development; residential lodge use for the manager; landscape impact; impact on roman heritage assets; visual impact and loss of amenity, especially for neighbouring properties; adverse light and noise impact; and traffic and highways issues.

The Parish Council noted the amended description which he advised re-confirmed their concerns regarding the development and questioned the specialist nature of it, especially since it was intended that almost $\frac{3}{4}$ of the lodges will be sold.

He went on to explain that after several years of comprehensive development, The Lanchester Neighbourhood Plan was examined earlier this year. The referendum planned for this summer has now been postponed because of the current Covid crisis. Recommended changes will aid clarity of use. All policies are retained. The Examiner congratulated us in preparing a very comprehensive assessment of heritage assets and viewpoints, over 170 in total.

It was the Parish council's view that the Policies contained within the Lanchester Neighbourhood Plan should still be given significant weight in determining the application.

The development he stated was contrary to and in conflict with the following Policies of said Plan.

- LNP2 Design of New Development
- LNP3 Historic Environment.
- LNP4 Green Spaces and the Rural Environment
 - LNP4A Green Infrastructure
 - LNP4B Landscape Improvement
 - LNP4C Landscape Features
 - LNP4D Biodiversity and Geodiversity
 - LNP4E Local Views

He went on to state that proposed management and mitigation measures were considered unrealistic and unsustainable and that the Officer's report confirmed that there would be a transformative and adverse impact on the character of this location. Indeed, the report confirms that its locational sustainability is poor. The

report confirms there will be adverse landscape impact and an adverse impact on residential amenity.

Furthermore, he explained that this was not considered an example of small scale rural diversification of existing buildings in the countryside but of a substantial commercial development within the open countryside, on open farmland, where no buildings currently exist. The nearest neighbours literally live just over the wall away. Many other objections from local neighbours clearly demonstrate and support our view that the setting, character, size and scale of the development in this very rural part of the Parish and County is just not appropriate and will have an adverse impact in so many ways.

In conclusion he urged the Committee to take full consideration of the Lanchester Neighbourhood Plan, all of the associated adverse impacts and to vote to refuse this application.

The Chair thanked Mr Friesner and went on to welcome Councillor A Watson, local member of an adjoining division to speak in support of the application.

Councillor Watson added that he fully supported the application and recognised its importance in terms of supporting the economy and creating trade and jobs. He further noted that there was a distinct lack of disabled facilities in the area due to funding shortages and this was impacted more so recently as a result of COVID-19.

The project was to be non-profitting and would provide quality facilities for those with special needs and disabilities and was a multi-million investment. It could put Durham County Council on the map as a visionary authority.

The Chair then invited J Errington, Senior Committee Services Officer to read out a statement made by Mrs Suddes, objector who was unable to attend the meeting.

I would like to start off by saying "Hello" I'm Maria Suddes who lives at Sheepwalks farm adjacent to the planning application. My family and I have lived here now for nearly 25 years and this planning project is going to massively change this beautiful quiet area.

I would also like to say I think this project is a wonderful idea "But" I think it's in the wrong place! It's right on our doorstep and this will have a big impact on our privacy especially with a 3ft wall separating the property. There is also the impact of the noise level from 150 visitors that is expected daily plus the occupants in the lodges from having nothing there at all.

The boundary ends in the middle of an open field and the worry is that this project will creep across right in front of our home and our neighbours on a later date the near future. There also is the road safety on Eliza lane noted where the planning intends to be, but the entrance to the lodges is on Longedge Lane...this being a road that doesn't get many walkers because it's a fast and dangerous road. The traffic will hit Eliza Lane more because of sat navigation, this road is known for a short cut from the A68.

This is the road we use from our property & where my son, grandchildren, dog walkers, cyclists and I go walking...so how safe will this road be with more added traffic? My son is partially blind, and I have Asthma and walking is the only exercise we do this is a beautiful safe place to go walking, and my son is now worried how this will affect his safety? My son is limited to what he can do and will never be able to drive a car he relies on we his parents or taxis for transport as there are no bus routes here.

When you drive out onto Eliza Lane just up on the right of the road...it's on an incline and the traffic does fly down this road so fast I've had to stop quick pulling out because it's not a flat road and you can't see clearly. Maybe we need a lower speed limit putting in place on Country roads especially in winter times! as they don't get gritted. Safety should always come first!

This has been a safe and beautiful environment Please don't take our safe and peaceful life away from us all. "Sometimes change isn't always a good thing"

The Chair then welcomed the applicants Mr and Mrs Adamson and Mr J Ridgeon, Applicants agent who were in attendance to speak in support of the application.

Mrs Adamson, Applicant advised that she and her family had lived there for 40 years. They had nurtured the landscape and would not wish to spoil it in any way. The impacts of the calming landscape on their grandson who himself suffered with learning difficulties had been remarkable and they had witnessed him thrive while enjoying the nature and wildlife the site had to offer. This had been the catalyst for developing the proposals and after extensive research, they had identified a gap in the market for holiday accommodation which was non institutional and provided for siblings without special needs.

She went on to advise that the location was ideal in respect of its proximity to the hospital and that there were no other facilities offering a retreat experience in the area.

In conclusion she commented that this was a dream project both herself and her family and they would ensure that any impact upon the landscape and scenery was minimal, whilst also meeting huge demand for this one of a kind service in the local area. She further noted support that they had received from partner organisations such as Learning for Life.

The Chair then welcomed Helen Hodge, Learning for Life who was in attendance to speak in support of the application.

Ms Hodge advised that this project was a positive and welcome addition to the area and offered a unique opportunity to work with those requiring additional help in the open countryside, which had been proven to be beneficial in helping those with multiple disabilities engage in outdoor activities.

She further explained that she lived within 0.5 miles of the application site and could not foresee any issues regarding traffic. In addition, whilst it was recognised that

there would be limited impact on the neighbouring farm, this would be mitigated in a sympathetic manner and in keeping with the local countryside.

The Chair then invited questions from the committee.

Councillor Wilkes asked whether clarification could be provided regarding the boundary line and proximity to nearby farm; in particular, why there was no definite boundary being inserted at this location to help screen the development from the neighbouring farm. In response Mr J Ridgeon, Applicant's agent advised that tree planting would have a higher impact on archaeological remains and therefore planting meadows etc, would ensure biodiversity net gain whilst also providing an element of screening.

Councillor Wilkes commented that he did not agree that archaeology would prevent some form of screening being used and questioned why this was not possible as he had concerns regarding the impact upon the neighbouring property.

Councillor Clare then raised a query regarding the 27 lodges which were to be sold and noted that whilst the site was aimed at supporting families with additional needs, he could see nothing in the conditions which would prevent them from being used by anyone for normal rent. The Senior Planning Officer advised that whilst there was nothing contained within the tenure of the sale of the lodges to prevent them from being sub-let, all owners would be obliged to adhere to the conditions contained within the Lodge Management Plan regarding activity, noise and general behaviour etc.

Councillor Jewell queried what the actual distance was to the neighbouring farm and whether this could be extended into in the future. The Senior Planning Officer in response advised that it was approximately 40 metres to the boundary and furthermore to Sheepwalks Farm. The farm experience was proposed to be the closest aspect of the development to the neighbouring property and should any further development of the site be required then this of course would be subject to planning permission being granted.

Councillor Atkinson in referring to page 34 of the report queried why it was considered relevant to make reference to the extremely sad incident related to a planning application which occurred in the area some years prior. Furthermore, he noted paragraphs 108/109 of the report regarding the occupancy of the lodges and going back to Councillor Wilkes's comments regarding the gas pipeline, commented that this must have been raised in the report for a reason. The Senior Planning Officer advised that the lodges as explained earlier were not for the exclusive use of particular people however when bookings were made information would be taken from the customer on their specific needs to determine suitability. He further noted that conditions would prevent permanent residency in lodges on site. Regarding the reference to the gas pipeline, he explained that this was included in the report for information following consultation with Cadent, who had submitted some concerns, however these had now been addressed and Cadent were now satisfied with the scheme.

In relation to the comments made regarding the incident some years prior, the Senior Planning Officer advised that this was included in the report as it had been raised in the content of objections received, however this bore no relevance to the application.

Councillor Davinson commented that he failed to see the justification for requiring an on-site manager's lodge and he felt that the time-lapse photographs provided were not fair in that they did not depict the impact of the development from the neighbouring farm.

In providing some clarification to Councillor Davinson, Mr Ridgeon advised that condition 4 addressed the occupation of the manager's lodge. He explained that a business viability and cashflow plan had been submitted to the planning authority to justify the requirement for on-site management accommodation.

The Senior Planning Officer further commented that in terms of operation and security it was deemed reasonable to have a permanent presence on site, and as evidence suggests, sites such as these were now being used year round and therefore it would also be considered reasonable in this instance to allow for some form of managers accommodation.

Councillor Atkinson at this point added that he did not consider any of the issues raised to outweigh the benefits and therefore proposed that the application be approved as per the Officer's recommendation in the report. Councillor Jewell in commenting that he also considered the application to be a positive one seconded the proposal.

Upon a vote being taken it was

Resolved:

That the application be **APPROVED** subject to the conditions as contained within the report.

**b DM20/00469/RM - Land to the south of High Grange Way
Wingate TS28 5FF**

The Principal Planning Officer, Henry Jones, gave a detailed presentation on the report relating to the abovementioned reserved matters planning application for 250 dwellings with associated highways infrastructure, landscaping, public open space and sustainable drainage features pursuant to planning permission DM/16/03958/OUT. A copy of which had been circulated (for copy see file of Minutes).

Members noted the report which was supplemented by a presentation including photographs of the proposed layout, access and location of the site.

He advised that the application was to consider reserved matters only and with such, no public comments had been received in respect of the application however local Member, Councillor Higgins had expressed his concerns as detailed in

paragraph 50 of the report. It was also noted that the local parish council had not submitted any objections to the application.

The Chair at this point welcomed Councillor Higgins to address the committee.

Councillor Higgins thanked the committee for allowing him the opportunity to put forward his concerns which were as follows. Historically the village has a history of flooding and with 4 ponds and beck already in the area, the addition of a non-fenced off SuDs would be a further area causing safety concerns should children be drawn to play around the pond following heavy rainfall. In addition, the proposed SuDs was close to a walkway and Wellfield School and water attracts children.

Moving on to paragraph 41 of the report, he added that whilst Highways had not submitted any objections he explained that the photographs shown to committee were not up to date and did not reflect the highway issues in the area including the A19 slip road at Wellfield Road B181 junction and the speeds at which cars travelled up and down this stretch of road.

In addition, he noted his dissatisfaction with the number of parking bays to be provided.

In conclusion he commented that whilst he understood that outline permission had been granted no consideration had been given to the impact upon already oversubscribed schools and GP surgeries. He therefore urged the committee to refuse the application.

In response the Principal Planning Officer advised that some of the points raised by Councillor Higgins were conditioned at outline permission stage and therefore were not included in conditions of this permission as the application must be read as a whole. He did however for members information, advise that a suite of 106 monies had been secured against the outline planning permission to include recreation, primary school education, cycling and public right of way improvements. Furthermore, he advised that CCGs were consulted with regarding GP surgery capacity and no issues had been addressed at that time.

In relation to the comments made regarding highways and traffic, John McGargill, Highways Development Manager advised that a signalised junction at the junction referred to by Councillor Higgins had already been agreed and would be delivered in the near future. In addition, the 20mph estate layout was deemed acceptable in highway terms and resident and visitor parking standards had been met.

Brian Weatherall, Senior Area Drainage Engineer in responding to comments made regarding the SuDs advised that it was not a pond but a basin. He further made reference to volumes of surface water and run off.

The Chair welcomed Frances Nicholson, Applicant to address the committee.

Frances Nicholson commented that Bellway Homes had positively and proactively taken on board feedback from planners and discussions at outline planning stage.

In addition, the Councils' Design Review Panel had scored the site predominantly Green. She therefore considered there to be no reasons for refusal at this stage.

Councillor Clare whilst congratulating Councillor Higgins on putting forward his concerns on behalf of his constituents, noted that unfortunately they were relevant at outline planning stage and therefore no weight could be placed upon them at this time. He did however note that there was an issue regarding perception of GP surgeries being full, generally as a result of inability to obtain appointments. Similarly, speeding and traffic which often was perceived to be an issue was quite different to the facts of the matter. In addressing the concerns regarding safety of children playing by the SuDS, he commented that he found it unlikely that should the weather be so terrible to cause the SuDs to fill it would be highly unlikely that children would be out playing.

Councillor Wilkes commented that he felt that an update was needed to national guidance to address the issues whereby issues school as school places or GP surgeries were not deemed to be an issue or relevant at the time of outline planning permission, but could have become an issue by the time a reserved matters application was considered, which in some cases could 4/5 years later. He further commented that he did feel a fence surrounding the SuDs would be beneficial and disagreed with Councillor Clare's comments.

Councillor Richardson asked whether the garages provided would be large enough to fit a car. In response Frances Nicholson advised that each property type regardless of the size of the home had a garage built to new guideline dimensions of 6x3 metres.

Councillor Bell commented that he fully supported the application noting that Bellway were a good and trusted developer. He did however agree that the SuDS was an accident waiting to happen and a fence could be provided at a relatively low cost.

Councillor Shuttleworth proposed that the application be approved subject to the conditions contained within the report. Councillor Atkinson seconded the proposal.

Upon a vote being taken it was

Resolved

That the application be **APPROVED** subject to the conditions as contained within the report.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/20/01499/WAS
FULL APPLICATION DESCRIPTION:	Change of use to clinical waste treatment and transfer facility, including autoclave, air condenser, boiler, shredder, compaction units, bin washes and extraction flues.
NAME OF APPLICANT:	Sharpsmart Ltd
ADDRESS:	Enterprise Point 1, Enterprise City, Green Lane Industrial Estate, Spennymoor
ELECTORAL DIVISION:	Tudhoe
CASE OFFICER:	Chris Shields Senior Planning Officer 03000 261394 chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site, Enterprise Point 1, has an area of 9,445m² and is located on Green Lane Industrial Estate. The site has an established use for B8 storage and distribution. The site comprises a brick and steel sheet clad portal frame warehouse, single storey flat roof offices, a service yard and car parking. The site is located immediately to the south of the applicants existing premises at Unit 44 at Enterprise City.
2. The site forms part of Enterprise City which extends to approximately 7.0ha on the east side Meadowfield Avenue in Spennymoor. It provides almost 28,000sqm of industrial, warehouse and office accommodation comprising Enterprise Point 1 and 2 which includes warehousing and a large yard, Enterprise City providing a range of industrial units and small business units and Enterprise House providing office accommodation. It forms part of the larger industrial area on the north east side of Spennymoor located to the immediate west of the A167, between the Thinford Roundabout and the Butcher's Race Roundabout.
3. The Durham Gate mixed use development, incorporating commercial, retail, residential and leisure lies to the immediate south and west of the site. The nearest residential properties to the site are located approximately 70m to the south west on Arlington Way. Mount Huley Farm and East Farm are located approximately 220m to the east.
4. There are no designated heritage assets in close proximity to the site. The nearest Listed Buildings are the Colliery Disaster Memorial at York Hill Cemetery which is Grade II Listed, 1.0km to the west of the site, the War Memorial in York Hill Cemetery which is Grade II Listed, 1.1.km to the west, Tudhoe Methodist Church in Tudhoe, which is Grade II Listed, 1.2km to the north west, and Slashpool House in Hett, which is Grade II Listed,

1.6km to the north. Conservation areas at Tudhoe and Hett approximately 1.3km to the north west and north east respectively.

5. The site is not within, or in the vicinity of any landscape or ecological designations. The nearest ecological designated sites are The Carrs Site of Special Scientific Interest (SSSI) which is located approximately 2.9km south east of the Site. The site is located approximately 1.8km to the east of Cow Plantation Local Wildlife Site (LWS) and Local Nature Reserve (LNR) and approximately 2.6km to the north west Ferry Hill Carrs LNR and LWS.
6. The site is entirely in Flood Risk Zone 1 and within a Coalfield Development Low Risk area. There are no public rights of way in the vicinity of the site.

The Proposal

7. The applicant currently supplies re-usable sharps containers to the healthcare sector and provides a collection service to its customers for the used containers which are brought to its existing transfer facility that currently operates from the adjacent Unit 44 at Enterprise City. They are emptied and cleaned, and then sent back to the customer for re-use, with the contents transferred to bulk containers for onward shipment to an appropriately permitted waste management facility for disposal by incineration or processing to produce a recovered fuel. In addition to the sharps containers, a proportion of the incoming waste is bagged, and arrives in bulk bins. This waste stream is stored pending transfer to a disposal facility with the bulked-up contents from the sharps containers.
8. This application is to allow the applicant to carry out a waste treatment activity as a standalone, but supporting, activity to the existing transfer operations. The proposed treatment activity would include a three-stage treatment process involving shredding, thermal treatment through a proposed autoclave, and compaction of the resulting treated waste. The proposed shredder, autoclave and compactor would be located within the existing building alongside the wash plant relocated from the adjoining Unit 44. The process is explained in more detail below but an autoclave is essentially a large scale pressure cooker; a sealed vessel using high pressure steam to sterilise the items put within it.
9. Incoming waste for on-site processing (with the exception of laboratory and metal instruments) would be loaded into a bin tipper mechanism that would load the batch into the shredder unit. The shredder would reduce the size of the waste to below 50 mm, to ensure an even and consistent treatment of the waste in the autoclave. The shredded waste would be collected into an autoclave cart, which would be the container that holds the waste within the autoclave. It would be possible to place up to ten autoclave carts into the autoclave per cycle.
10. The shredder would be a standalone unit not directly connected to the autoclave but would be an enclosed/sealed unit to eliminate the potential for the release of pathogens from the untreated waste. There would be an air extraction system attached to the shredder unit. This would vent to atmosphere via a High Efficiency Particulate Air (HEPA) filter and a carbon filter system. The HEPA filter would remove small particulates from the air and trap them, preventing their release to atmosphere. The carbon filter would remove any contaminants and impurities from the extract, using chemical adsorption. This would prevent the release of any contaminants to atmosphere and also provides odour control.
11. The autoclave would be a horizontally orientated cylindrical vessel that would be subject to high vacuum and high pressure. The waste would be placed into the vessel in the

autoclave carts and the door closed. The autoclave would operate on a batch process with a single cycle which is approximately 1 hour long. To start the process, a vacuum is pulled to evacuate any air from the vessel to ensure that when high pressure steam is injected into it, there is a good level of penetration into the infectious waste in it. The treatment process involves the application of high-pressure steam (at 150 °C) to the waste, to achieve its sterilisation. This sterilisation process renders the waste non-infectious, i.e. changes it from hazardous to non-hazardous. When all of the liquid in the vessel has evaporated, it leaves a finely shredded dry waste or floc.

12. In order to operate the autoclave, a steam-raising boiler would be installed in the treatment section the building. This would be gas-fired and has been chosen to meet the steam demand of the autoclave unit. The only external works would be the installation of five flues, with one flue extending in height to 10.3m above ground level, a second to a height of 9.8m above ground level and three would be 8.6m above ground level. The flue for the boiler would rise 1.5m above the roofline while the remaining 4 flues would rise 1m above the roofline.
13. There are no direct emissions to air from the autoclave unit. Instead, venting is performed through an air condenser unit to produce a small volume of liquid effluent, approximately 600 litres per cycle. The post-vacuum cycle removes residual steam from the autoclave and flushes out residual liquids, drying the waste. This also controls odour. The condenser (heat exchanger) uses water to cool and condense the passing steam. The incoming water is heated to around 85 degrees C. This clean hot water is captured and used in the process for washing the reusable containers and 770ltr bins. There would be an 8.6m external flue, but this would only be for the purposes of venting remnant steam when the door is opened after a treatment cycle. This would be fitted with a carbon filter.
14. Any potentially contaminated effluent generated from the processing of sharps waste, when treating bagged waste, would be discharged to sewer at a rate of 1,000,000 litres per year. An additional 200,000 litres would be collected for off-site treatment.
15. Post treatment the sterilised waste floc would be held in the carts would be removed from the autoclave and the cart placed onto a bin lifter which would tip the waste into a compaction unit. This would reduce the volume of the floc by up to 60%. The compacted floc would then be placed into compactor skips or retained in the portable compaction unit and stored temporarily at the facility pending transfer to a permitted energy from waste facility with R1 status or a reprocessing facility manufacturing fuel pellets from waste materials, where it would be used as a refuse derived fuel (RDF) and energy recovered from it. There would be two compaction units located within the building, that would directly feed skips, stored in the yard.
16. There would also be the option to omit the shredding or autoclave processes depending on the type of waste being treated. Metal instruments, for example, would not require shredding prior to entering the autoclave.
17. The site would continue to the use the existing access on to Meadowfield Avenue, which reaches the A167 via York Hill Road to the south. The development would generate up to 46 (23 in, 23 out) Light Goods Vehicle (LGV) or Heavy Goods Vehicle (HGV) movements per day. It is proposed that the site would be able to operate as a distribution centre 24 hours per day, although processing and the treatment plant would not operate between the hours of 2300 and 0700.
18. The proposed autoclave would have the capacity to process up to 30 tonnes per day and would be regulated by the Environment Agency through the Environmental Permitting regime, as are existing operations at the site.

19. The application is being reported to the County Planning Committee following a request from the Local Member.

PLANNING HISTORY

20. The Site was previously occupied by Boots and used as their Spennymoor regional distribution centre, as an establish B8 Storage and Distribution use.

PLANNING POLICY

NATIONAL POLICY

21. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
22. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). 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.
23. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
24. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
25. *NPPF Part 6 – 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.
26. *NPPF Part 8 – Promoting healthy and safe 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.

27. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
28. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
29. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - 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, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
30. *NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

31. 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; determining a planning application; flood risk; healthy and safe communities; light pollution; noise; planning obligations; travel plans, transport assessments and statements; use of planning conditions; water supply, wastewater and water quality.

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

32. National Planning Policy for Waste sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Waste Planning Authorities should only expect a demonstration of need where proposals are not consistent with an up to date Local Plan and should not consider matters that are within the control of pollution control authorities. Waste proposals should not undermine the objectives of the Local Plan and should be environmentally sensitive and well designed. Of further relevance is the Waste Management Plan for England, which also advocates the movement of waste up the waste hierarchy in line with the requirements of the European Waste Framework Directive (WFD). One such requirement is the 'proximity principle' (Article 16) which stipulates self-sufficiency; an 'integrated and adequate network of waste disposal installations' and that waste management should be at the nearest appropriate installations.

LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

33. Policy 2 – Employment Land – states that undeveloped land and plots at Green Lane Industrial Estate/Durham Gate (amongst others) are allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution).
34. Policy 31 – Amenity and Pollution - sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
35. Policy 41 – Biodiversity and Geodiversity – states that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for.
36. Policy 43 - Protected Species and Nationally and Locally Protected Sites – states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
37. Policy 44 – Historic Environment - seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.
38. Policy 60 – Waste Management Provision - requires proposals for the provision of new or enhanced waste management capacity to demonstrate that they contribute to driving the management of waste up the waste hierarchy and do not prejudice the movement of waste up the waste hierarchy, assist in moving the management of waste in County Durham towards net self-sufficiency and/or make an appropriate contribution to regional net self-sufficiency by managing waste streams as near as possible to their production and assist in meeting the identified need, set out within this Plan, for new waste management capacity to manage specific waste streams over the Plan period or can demonstrate an additional need which cannot be met by existing operational facilities within County Durham or the North East.
39. Policy 61 – Location of New Waste Facilities - states that proposals for new or enhanced waste management facilities will be permitted where they will assist the efficient collection, recycling and recovery of waste materials and they:

- a) are located outside and do not adversely impact upon the setting or integrity of internationally, nationally and locally designated sites and areas;
- b) are located outside the Green Belt or are in locations which do not impact upon its openness;
- c) minimise the effects of transporting waste including by locating as close to arisings as practical; and can be satisfactorily located as part of an existing waste management facility, or where the waste management facility; and
- d) can be satisfactorily co-located with complimentary activities and potential users of recovered materials, recyclates and soils, energy and heat, where appropriate and feasible and where this represents a sustainable option; or
- e) can be satisfactorily located on suitable land identified for employment use, or on suitable previously developed land in the larger towns and villages where the site can serve a local or larger catchment.

County Durham Waste Local Plan (2005)

- 40. Policy W26 – Water Resources – states that proposals for waste development which does not involve landfill or landraise will not be permitted unless it can be demonstrated that there will be no significant adverse impact or significant deterioration to the quality of surface or groundwater resources and the flow of surface or groundwater at or in the vicinity of the site.
- 41. Policy W29 – Modes of transport – requires that waste development incorporate measures to minimise transportation of waste.
- 42. Policy W31 – Environmental impact of road traffic – states that waste development will only be permitted if traffic estimated to be generated by the development can be accommodated safely on the highway network, the amenity of roadside communities is protected, the strategic highway network can be safely and conveniently accessed and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable.
- 43. Policy W32 – Planning obligations for controlling environmental impact – states that in granting planning permission for waste development, planning conditions be imposed to cover, in addition to other issues, the prevention of the transfer of mud, dust, or litter onto the public highway by measures including the provision of wheel cleaning facilities, suitably metalled access roads and the sheeting of laden vehicles.

NEIGHBOURHOOD PLAN:

- 44. There is no Neighbourhood Plan for this area.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan and Adopted County Durham Waste Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

- 45. *Environment Agency* – has raised no objections to the proposals and has advised the site has an existing Environmental Permit, which would need to be varied to include the additional elements proposed in this planning application.

46. *Highway Authority* – has raised no objections to the proposals. Officers have advised that there is a stated increase from 12 HGV vehicles to 46 vehicles per day. This level of traffic generation is not material on the highway network and could be accommodated with current infrastructure. Officers recognise concern about use of Arlington Avenue for HGV traffic. This is a traffic calmed highway link through a residential area, however, the number of HGV movements are low throughout the day and any further movement restrictions could not be justified on a highway management ground.

INTERNAL CONSULTEE RESPONSES:

47. *Environment, Health and Consumer Protection (Air Quality)* – has raised no objections to the proposals. Officers have commented that proposed development would comply with national air quality objectives and EU Limit Values. This would indicate that the development would not lead to an adverse impact upon air quality. Officers have considered the impacts to air quality from exhaust flues, the shredder unit and vehicle movements and find this to be acceptable.
48. *Environment, Health and Consumer Protection (Nuisance Action)* – has raised no objections to the proposals. Officers have considered the submitted Noise Assessment and find it to be acceptable but have recommended that conditions be imposed to restrict the use of audible reverse alarms between the hours of 2300 and 0700, to ensure that only white noise reverse alarms are used and that alarm on the site entrance barrier is disabled between the hours of 2300 and 0700. In an addendum comment, officers requested a condition that would require noise from the site to adhere to the limits set out in the submitted noise assessment and for the operator to produce a verification assessment on request.

PUBLIC RESPONSES:

49. The application has been advertised by way of a press and site notice and individual notification letters to neighbouring residents. 134 letters of objection have been received with the main issues raised relating to emissions impacting on air quality and odour released from the receipt and treatment of waste. The impact of noise from the operation of the processing plant and delivery vehicles, particularly during the night, has been raised with some very detailed objections submitted. Concerns have also been raised in relation traffic including routeing and increased vehicle movements, risk of contamination and harm to health, working hours, disturbance to other users including the adjacent police dogs and finally the potential negative impact on house prices.
50. *Councillor Neil Grayson* – has objected to the proposal due to the potential increase in traffic, noise and disturbance, potential impacts from handling hazardous materials, odour from waste disposal and loss of property value for neighbouring residents.
51. *Councillor Martin Harmer (Spennymoor Town Council)* - has objected to the proposal due to the potential risk from hazardous materials, increase in vehicle movements, and noise and air pollution.

The above is not intended to repeat every point made and 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/simpleSearchResults.do?action=firstPage>

APPLICANTS STATEMENT:

52. Sharpsmart Ltd has been supplying the NHS with reusable sharps containers and healthcare waste services for over 15 years from its original Spennymoor base, Unit 44 Meadowfield Avenue. With continued growth and to allow us to further support for the

local NHS Sharpsmart took on the larger Unit 1 building in July 2019 with the plans to relocate the current operations and build a new modern processing facility.

Emissions including Air Quality and Odour

53. The technology proposed for the site is a steam steriliser, this is a non-burn treatment.
54. The treatment process involves the application of high-pressure steam to the waste, to achieve its sterilisation, this renders the waste non-infectious and non-hazardous, leaving a finely shredded dry flock. It would be located entirely within the Sharpsmart building, with the only external changes being the installation of new flues for the boiler and air extraction.
55. There are no direct emissions to air from the autoclave unit. Venting is through an air condenser, producing a small volume of liquid effluent, approximately 600 litres per cycle. The post-vacuum cycle removes residual steam from the autoclave and flushes out residual liquids, drying the waste. This also controls odour.
56. The only emissions to air from the plant will be very limited comprising those from the air extraction system on the shredder unit, will vent to atmosphere via a HEPA filter and a carbon filter which control any potential infection risk or odour and the steam boiler.

Noise

57. The noise assessment has been submitted with the application confirms that the operation of the plant can be undertaken without affecting the amenity of the closest residential receptors to the site during the daytime. To reduce any further risk of inconvenience from the processing plant it will not be operated during the night. Sharpsmart will also deactivate the gate alarms.

Traffic - Routing and Lack of Capacity on the Road Network

58. There are weight limits to prevent access to the site so that this can only be taken to and from the north via Butcher's Race Roundabout, York Hill Road and Meadowfield Avenue only. To address the concerns of residents Sharpsmart are agreeable to enter into a routing agreement, whereby no waste vehicles will enter Arlington Avenue.

Risk of Contamination and Infection

59. There would be no risk of contamination. The transport of storage of waste materials is completely controlled through the use of sealed containers and are only be opened within an enclosed sealed shredder unit, which has been designed to prevent the release of pathogens from the untreated waste. There will be an air extraction system attached to the shredder unit which is fitted with a High Efficiency Particulate Air (HEPA) filter and a carbon filter system. The HEPA filter will remove small particulates from the air and trap them, preventing their release to atmosphere. No anatomical waste, chemicals or highly infectious materials will be processed on the site

PLANNING CONSIDERATIONS AND ASSESSMENT

60. 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 advice within 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, residential amenity, air quality and emissions, noise, highway safety and access, ecology, heritage, flooding and drainage and other matters.

The Principle of the Development

The Development Plan

61. 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 County Durham Plan (CDP) and the County Durham Waste Local Plan (WLP) are the statutory development plans and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The WLP was adopted in 2005 and was intended to cover the period to 2016. However, NPPF Paragraph 213 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. The CDP replaces principle policies of the WLP with the remaining saved policies set out in the Policy section above.
62. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
 - c) approving development proposals that accord with an up to date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
 - ii) 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.
63. The key policies for the determination of this application are County Durham Plan (CDP) Policies 2, 60 and 61. In addition, there are a number of applicable environmental protection policies both within the CDP and the WLP.
64. National and local planning policies are generally supportive towards sustainable waste management initiatives and seek to promote the movement of materials up the waste hierarchy. The NPPW sets out in the waste hierarchy that prevention of waste and re-use of materials should be considered before recycling, recovery and final disposal of waste. Paragraph 7 of the NPPW says that applicants should only be expected to demonstrate the quantitative or market need for new waste management facilities where proposals are not consistent with an up-to-date Local Plan.
65. CDP Policy 60 requires proposals for the provision of new or enhanced waste management capacity to demonstrate that they contribute to driving the management of waste up the waste hierarchy and do not prejudice the movement of waste up the

waste hierarchy, assist in moving the management of waste in County Durham towards net self-sufficiency and/or make an appropriate contribution to regional net self-sufficiency by managing waste streams as near as possible to their production and assist in meeting the identified need, set out within this Plan, for new waste management capacity to manage specific waste streams over the Plan period or can demonstrate an additional need which cannot be met by existing operational facilities within County Durham or the North East.

66. CDP Policy 2 states that undeveloped land and plots at this site are allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) uses.
67. CDP Policy 61 states that proposals for new or enhanced waste management facilities will be permitted where they will assist the efficient collection, recycling and recovery of waste materials and they:
 - a) are located outside and do not adversely impact upon the setting or integrity of internationally, nationally and locally designated sites and areas;
 - b) are located outside the Green Belt or are in locations which do not impact upon its openness;
 - c) minimise the effects of transporting waste including by locating as close to arisings as practical; and can be satisfactorily located as part of an existing waste management facility, or where the waste management facility; and
 - d) can be satisfactorily co-located with complimentary activities and potential users of recovered materials, recyclates and soils, energy and heat, where appropriate and feasible and where this represents a sustainable option; or
 - e) can be satisfactorily located on suitable land identified for employment use, or on suitable previously developed land in the larger towns and villages where the site can serve a local or larger catchment.
68. The purpose of the development is to increase capacity of the business at Green Lane Industrial Estate, having previously operated out of the adjoining unit within Enterprise Point, and to also add a treatment process. The existing business operates as a transfer station for clinical waste, although there is a process line for cleansing of the waste containers. Adding waste treatment to the existing facility would improve efficiency and reduce unnecessary transport of waste in accordance with CDP Policy 60. Due to the nature of clinical waste the amount which can be recycled or re-used is limited, however, the purpose of the autoclave is to render waste to a non-hazardous so that it may be disposed of through incineration with energy recovery, for example. It is therefore considered that the proposal would elevate waste up the waste hierarchy as far as practical in accordance with CDP Policy 60.
69. The supporting text accompanying CDP Policy 61 shows that there is a surplus capacity for clinical waste transfer within the County, however, as the waste transfer element of this business is being relocated from the adjoining unit this is not considered to be the creation of additional capacity. Data relating to clinical waste treatment is not provided in the CDP as this is a specialist activity.
70. The proposed development is not within any internationally, nationally or locally designated sites or within the Green Belt and therefore complies with criteria a) and b) of CDP Policy 61. Specialist waste facilities of the type proposed provide service to a wide geographical area, not necessarily restricted to the County, and cannot, practically, be located close to the majority of waste arisings. Facilities of this type should, however, still minimise the effects of transporting waste. The applicant currently operates a similar facility near Leeds, and it is likely that the catchment area for the proposed site would be further north and closer to it. In this case the proposed site is well located being in close proximity to the strategic highway network. It has direct access onto the A167 via York Hill Road (some 0.8km by road) and to the A1(M) via the A688, with the

A688 being accessed approximately 1.9km from the site. The A1(M) is approximately 6.8km by road via Thinford. The location therefore seeks to minimise the effects of transporting waste as far as it is practicable having regard to criteria c) of Policy 61.

71. The proposed development is the co-location of a waste treatment facility within the same building as a regional storage and distribution centre for clinical waste containers produced and supplied by the applicant to end users. This element of the development is already in operation as the building has an established use for B8 storage and distribution. The proposal therefore accords with criterion d) of CDP Policy 61.
72. The site is located within the Enterprise Point development, which is part of Green Lane Industrial Estate / Durham Gate. The proposal therefore also accords with criterion e) of CDP Policy 61 as the development would be located on a suitable site identified for employment use.
73. It is considered that the principle of the development, as a specialist waste facility, at this location and within an existing unit on an established industrial estate would be compliant with relevant national and local policy.

Residential Amenity

74. Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 7 of the NPPW states that When determining waste planning applications, waste planning authorities should consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B (of the NPPW) and the locational implications of any advice on health from the relevant health bodies.
75. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
76. A significant level of local objection has been received in relation to this development, mainly from residents of the recently built houses at Durham Gate to the south. 134 letters of objection have been received with the main issues relating to emissions impacting on air quality and odour, noise, traffic including routeing and increased vehicle movements, risk of contamination and harm to health, working hours and disturbance to other users including the adjacent police dogs. The issues of air quality and emissions, noise and working hours are set out in this section. Other issues are discussed elsewhere in this report.
77. The issues raised by objectors suggests that the proposal has not been fully understood and it is likely that the description of development has created the perception of a waste disposal facility.

Air Quality and Emissions

78. The proposed development would include an autoclave treatment process. This is not an incinerator and no waste would be burnt at the site. The autoclave process sterilises waste with the application of high pressure steam in a sealed vessel.
79. The sterilisation process renders the waste non-infectious, i.e. changes it from hazardous to non-hazardous. When all of the liquid in the vessel has evaporated, it leaves a finely shredded dry waste or floc. It would be located entirely within the building, with the only external changes being the installation of new flues for air extraction and the boiler.
80. There would be no direct emissions to air from the autoclave unit. Venting would be through an air condenser unit to produce a small volume of liquid effluent, approximately 600 litres per cycle. The post-vacuum cycle would remove any residual steam from the autoclave and flush out residual liquids, drying the waste. This would also control odour.
81. There would be an external flue, but this would only be for the purposes of venting remnant steam when the door is opened after a treatment cycle, and this would be fitted with a carbon filter.
82. The only other significant piece of processing plant would be the shredder which would be a standalone unit that would not be directly connected to the autoclave but would be an enclosed sealed unit to prevent the release of pathogens from untreated waste. There would be an air extraction system attached to the shredder unit. This would vent to atmosphere via a High Efficiency Particulate Air (HEPA) filter and a carbon filter system. The HEPA filter would remove small particulates from the air and trap them, preventing their release to atmosphere. The carbon filter would remove any contaminants and impurities from the extract, using chemical adsorption. This will prevent the release of any contaminants to atmosphere and also provides odour control.
83. Environmental Health and Consumer Protection Officers and the Environment Agency have considered the application and raised no objections in respect of air quality. The development would be regulated by the Environment Agency as part of the Environmental Permitting regime as the existing operation is. It is therefore considered that the proposal not produce emissions, odour or detrimentally impact on air quality in accordance with CDP Policy 31, Part 15 of the NPPF and Paragraph 7 of the NPPW in this respect.

Noise

84. A Noise Assessment has been submitted in support of the application following a request from Environmental Health and Consumer Protection. The purpose of the Noise Assessment is to demonstrate that the development would not exceed daytime (0700 – 2300 hours) background noise levels by 5dB and night time (2300 – 0700) noise levels by 0dB. The assessment provides background noise levels for the site and predictions for the proposed development. The assessment includes a noise map showing that the focus of potential noise impact is to the south of the application site. The assessment concludes that the development would exceed daytime noise levels by 2dB and would therefore comply in that regard but it is also noted that night time noise levels would be exceeded by 3db and therefore the development would not comply during night time operation, resulting in a low-adverse impact on nearest residential receptors. However, the assessment goes on to state that the exceedance of night time noise levels would be due to HGV movements and associated activities. As the site has an unrestricted B8 storage and distribution use this activity could occur without further consent. The assessment acknowledges that the nearest residential

properties were granted planning permission in full knowledge of the B8 use of the application site and mitigation measures were proposed in the form of an acoustic fence and enhanced glazing for individual properties. The assessment concludes that the development would give rise to noise impacts that would be categorised as No Observed Adverse Effect Level (NOAEL) within the NPPG England guidance.

85. A neighbouring resident has provided a detailed objection letter, challenging the submitted noise Assessment specifically in relation to hours of operation, the gate alarm, lack of information in the assessment with certain activities not included, the assessment being based on averaged background noise values rather than worst case scenario, concerns about the source data for predicting noise levels. The objection queries whether the BS4142 noise assessment criteria has been correctly followed and sets out a number of alternative assessment outcomes, all showing the development to exceed the noise limits set by the Council. Whilst requesting that the application be refused on noise impact the objection does set out suggested conditions, should the application be improved. These conditions include the gate alarm being disabled at all times, HGV reverse alarms being disabled overnight, no processing of waste overnight, new noise assessment to be submitted prior to 24 hour working and the submission of a noise verification report within 21 days of the plant being brought into use.
86. The applicant has provided a response to the concerns raised by the objector. This sets out that as a consequence of the noise assessment, operation of mechanical plant would not occur during night time hours and only HGV movements would occur at this time. The applicant has noted that they intend to disable the gate alarm. Aspects of HGV operation including hitching and unhitching trailers, changing wheels and loading operations are not included in the noise assessment as they are part of the established B8 use of the site. The impact of pressure relief valves is not included as they are not part of the development and vocalisation of employees in the yard at night would be limited due to loading/unloading using the existing dock. The applicant notes the assertion that background noise levels presented were not the 'worst case scenario' but advises that the BS4142 criteria was followed correctly. The applicant addresses the criticism of incorrect noise source data by explaining that it based on existing, operational plant in use at another of the applicants sites in Normanton. The applicant has defended their methodology in assessing specific sound levels and drawing the noise map and refutes the suggestion that development could significantly exceed the noise levels set out in the Noise Assessment.
87. In addition to residential properties it is noted that changes to the General Permitted Development Order in respect of change of use of offices (B1) to residential (C3) is now permitted in certain circumstances and may apply to offices located with Green Lane Industrial Estate. The proposed development is on the southern periphery of Green Lane Industrial and the predicted noise map shows the potential noise impact is directed away from any office that may be changed to residential use.
88. Environmental Health and Consumer Protection officers have considered the application and supporting Noise Assessment. Officers have stated that the information submitted demonstrates that the application complies with the thresholds stated within the Technical Advisory Notes (TANS), indicating that the development will not lead to an adverse impact. Officers note that HGV operations would raise background levels by 3dB at night, however, it is stated that HGV movements would be significantly less than is currently allowed. It is also noted that reversing alarms could be restricted to daytime hours only and that the gate alarm could be disabled. Officers recommend conditions be imposed to ensure that reversing alarms are not used during night time hours, fork lift trucks are to be fitted with white noise reverse alarms and that the gate alarm is disabled between the hours of 2300 and 0700. Officers have also requested a condition to ensure that the predicted noise levels set out in the submitted Noise

Assessments are not exceeded and to facilitate the ability to request a noise verification report to demonstrate this.

89. Based on the information set out above and assessment by Environmental Health and Consumer Protection officers it is considered that the development would not generate noise impact that would be detrimental to the nearest noise sensitive receptors. Subject to conditions limiting working hours and restricting the use of noise emitting devices it is considered that the development would accord with CDP Policy 31, Part 15 of the NPPF and Paragraph 7 of the NPPW in this respect.

Highway Safety and Access

90. Paragraph 108 of the NPPF states that safe and suitable access should be achieved for all people. In addition, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. WLP Policy W29 requires that waste development incorporate measures to minimise transportation of waste. WLP Policy W31 states that waste development will only be permitted if traffic estimated to be generated by the development can be accommodated safely on the highway network, the amenity of roadside communities is protected, the strategic highway network can be safely and conveniently accessed and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable. WLP Policy W32 states that in granting planning permission for waste development, planning conditions be imposed to cover, in addition to other issues, the prevention of the transfer of mud, dust, or litter onto the public highway by measures including the provision of wheel cleaning facilities, suitably metalled access roads and the sheeting of laden vehicles. WLP Policies W29 and W31 are considered to be consistent with the NPPF and can be afforded full weight in the determination of the application. WLP Policy W32 is only partially consistent, as it does not fully reflect Section 122 of the CIL Regulations and therefore it can only be afforded limited weight in the decision making process.
91. The site has an existing access on to the unclassified Meadowfield Avenue and has an established and unrestricted use for storage and distribution; an activity that would typically attract a high volume of vehicle movements.
92. The development would generate up to 46 (23 in, 23 out) Light Goods Vehicle (LGV) or Heavy Goods Vehicle (HGV) movements per day. It is proposed that the site would be able to operate as a distribution centre 24 hours per day, although processing and treatment plant would not operate between the hours of 2300 and 0700. As waste materials would be collected from medical facilities it is unlikely that there would be significant vehicle movements out of normal daytime working hours.
93. Concerns have been raised by residents about the impact of additional traffic movements and the routing of vehicles to Thinford roundabout via Arlington Way, which would bring vehicles closer to new residential properties in Durham Gate. However, Arlington Way has a weight restriction preventing access by HGV's and therefore access to the site for HGV's must be taken from the north via Meadowfield Avenue to York Hill Road then onto the A167. Notwithstanding this, the applicant has agreed to enter into a vehicle routing protocol which can be required as a condition. In addition, maximum vehicle movements associated with the development can also be controlled through condition.
94. Highway officers have considered the proposal and note that there would be a stated increase from 12 HGV vehicles to 46 vehicles per day. Officers consider this level of traffic generation to be immaterial on the highway network and could be accommodated with current infrastructure. Officers recognise the concerns by residents about use of

Arlington Avenue for HGV traffic but note that the proposed number of HGV movements would be low throughout the day and any further movement restrictions could not be justified on highway management grounds. Officers conclude that there are no objections from a highways perspective.

95. It is considered that traffic from the proposed development can be safely accommodated on the highway. The site is located close to the strategic network (A167, A688 and A1(M)) and impact on local amenity is considered to be acceptable subject to conditions including limits on vehicle movements and vehicle routing. It is therefore considered that the proposal would accord with WLP Policies W29, W31 and W32, Part 9 of the NPPF and Paragraph 7 of the NPPW.

Ecology

96. Paragraph 175 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 and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 43 states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts.
97. The site is not within, or in the vicinity of any ecological designations. The nearest designated sites are The Carrs Site of Special Scientific Interest (SSSI) which is located approximately 2.9km south east of the Site. The site is located approximately 1.8km to the east of Cow Plantation Local Wildlife Site (LWS) and Local Nature Reserve (LNR) and approximately 2.6km to the north west Ferry Hill Carrs LNR and LWS.
98. The proposal would adapt and use a site with an existing building that has previously been occupied by an employment use. The development would not involve any clearance of vegetation and would not cause any harm to protected species or habitats including nationally and locally protected site given the distance from such designations. The proposal would accord with CDP Policies 41 and 43 and Part 15 of the NPPF.

Heritage

99. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.

100. There are no designated heritage assets in close proximity to the site. The nearest Listed Buildings are the Colliery Disaster Memorial at York Hill Cemetery which is Grade II Listed, 1.0km to the west of the site, the War Memorial in York Hill Cemetery which is Grade II Listed, 1.1.km to the west, Tudhoe Methodist Church in Tudhoe, which is Grade II Listed, 1.2km to the north west, and Slashpool House in Hett, which is Grade II Listed, 1.6km to the north. Conservation areas at Tudhoe and Hett approximately 1.3km to the north west and north east respectively.
101. The proposed development seeks to reuse an existing building with minimal visual changes. The addition of flues to the roof of the building would not materially impact the visual appearance of an industrial structure and, combined with the separation distances and intervening topography and screening it is considered that appearance and use of the site would not cause any harm to any designated heritage assets or Conservation Areas. It is therefore considered that the proposal would accord with CDP Policy 44 and Part 16 of the NPPF.

Flooding and drainage

102. WLP Policy W26 states that proposals for waste development which does not involve landfill or landraise will not be permitted unless it can be demonstrated that there will be no significant adverse impact or significant deterioration to the quality of surface or groundwater resources and the flow of surface or groundwater at or in the vicinity of the site. WLP Policy W26 is considered to be consistent with the NPPF and can be afforded full weight in the decision making process.
103. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 15 of the NPPF takes account of the impact of any development upon the natural environment as does the locational criteria in Appendix B (criterion A) of the NPPW relating to protection of water quality and flood risk management.
104. The site is located entirely within Flood Risk Zone 1 and is therefore at lowest flood risk. The site is within a minor Groundwater Vulnerability area. The site area is less than 1Ha and therefore the application did not need to be accompanied by a Flood Risk Assessment. Given the site location within a built up area and within an existing building with drainage already in place it is considered that the proposed change of use would have a negligible impact upon flooding and drainage.
105. The Environment Agency has considered the proposals and raised no objections. It is therefore considered that the proposal would accord with WLP Policy W26, Part 15 of the NPPF and Paragraph 7 of the NPPW.

Other Considerations

106. Objectors have raised concerns about the risk of contamination and harm to health. Paragraph 183 of the NPPF states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

107. The applicant has advised that there would be no risk of contamination, infection or adverse impact on health. The transport of storage of waste materials would completely be controlled through the use of sealed waste containers which would be placed in sealed bins and would only be opened within an enclosed sealed shredder unit. As detailed above the unit has been designed to prevent the release of pathogens from the untreated waste. There would be an air extraction system attached to the shredder unit which would vent to atmosphere via a High Efficiency Particulate Air (HEPA) filter and a carbon filter system. The HEPA filter would remove small particulates from the air and trap them, preventing their release to atmosphere. The carbon filter would remove any contaminants and impurities from the extract, using chemical adsorption. This would prevent the release of any contaminants to atmosphere and would also provide odour control. This system is already in operation at the adjacent Unit 44 and there has never been an incidence of contamination from the existing plant.
108. Furthermore, the process would be regulated through the Environmental Permit to ensure that it continues to operate safely. There are no changes proposed to the type of material taken into the plant which does not include anatomical waste, chemicals or highly infectious materials. The Environment Agency have raised no objections to the proposal and have advised that a variation to the existing Environmental Permit for the site would be required for the autoclave treatment process.
109. The site is within a Coalfield Development Low Risk Area. Should planning permission be granted the Coal Authority standing advice would be provided as an informative to the applicant.
110. Objectors have raised concerns that the proposal would negatively impact on house values. The value of property rises and falls for numerous reasons and it is an established principle that this issue cannot be taken into account as a material consideration in the determination of a planning application.
111. Objectors have raised concerns that the night time operation of the facility would cause disturbance to other users including the adjacent police dogs. As previously set out in this report, the site has an existing unrestricted use for B8 storage and distribution without causing an unacceptable disturbance to other users or the police dogs. The applicant has advised that the police dog training facility is located 100m to the west of the application site and is screened by a belt of mature trees. It is considered that this is unlikely to be a significant issue.

Consideration of Application Against the Development Plan

112. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In light of the recent adoption of the CDP, the Council now has an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c). Although saved policies of the WLP remain in place, the most important policies for the determination of this application are contained within the up to date CDP

CONCLUSION

113. The development would provide for the continued operation and expansion of a well established clinical waste management facility. The move to the application site from the existing, adjoining unit would facilitate the improved management of the existing

waste management functions whilst also allowing on site treatment of some waste streams that previously had to be taken elsewhere, thereby minimising the transportation of waste. The development would also facilitate improved storage and distribution of clinical waste containers.

114. The potential impacts of the development have been fully assessed and found to be acceptable, subject to conditions where appropriate. The development would be fully contained within an industrial building on a site allocated for employment use.
115. The development has generated public interest and the objections from local residents have been taken into account in the determination of the application along with other responses including those of statutory consultees that have raised no objections to the proposal subject to conditions where appropriate. Whilst mindful of the nature and weight of public concerns it is considered that these are not sufficient to outweigh the planning judgement in favour of the proposals comprised in both applications.
116. It is considered that the proposal would fully accord with all relevant national and local planning policy.

RECOMMENDATION

That the application be **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 shall be carried out in full accordance in with the following plans:
Drawing No. SHSMT003 – Proposed Floor Plan
Drawing No. SHSMT005 – Proposed Elevations

Reason: To protect residential amenity and ensure highway safety in accordance with County Durham Plan Policies 31 and 48, County Durham Waste Local Plan Policy W31, Parts 9 and 15 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

3. No vehicles associated with the import and export of waste materials shall enter or leave the site via Arlington Way, Spennymoor.

Reason: To protect residential amenity and ensure highway safety in accordance with County Durham Plan Policy 31, County Durham Waste Local Plan Policy W31, Part 9 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

4. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 46dB LAeq (1 hour) between 07.00-23.00 and 35dB LAeq (15 mins) between 23.00-07.00, at the NSR 1 as detailed in the Inacoustic Noise Assessment, project number 20-167 dated 24 August 2020. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019. On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

Reason: To protect residential amenity in accordance with County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

5. Reverse alarms for all HGV's and plant shall be disabled within the site during the hours of 2300 – 0700.

Reason: To protect residential amenity in accordance with County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

6. Vehicle movements associated with the import and export of waste materials shall be limited to 23 in and 23 out per day.

Reason: To protect residential amenity and ensure highway safety in accordance with County Durham Plan Policy 31, County Durham Waste Local Plan Policy W31, Part 9 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

7. No processing of waste shall occur between the hours of 2300 and 0700.

Reason: To protect residential amenity in accordance with County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

8. All forklift trucks operating within the site shall be fitted with white noise reverse alarms.

Reason: To protect residential amenity and ensure highway safety in accordance with County Durham Plan Policy 31, County Durham Waste Local Plan Policy W31, Part 9 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

9. The entrance gate to the site shall not emit an audible alarm when opened.

Reason: To protect residential amenity and ensure highway safety in accordance with County Durham Plan Policy 31, County Durham Waste Local Plan Policy W31, Part 9 of the National Planning Policy Framework and Paragraph 7 of the National Planning Policy for Waste.

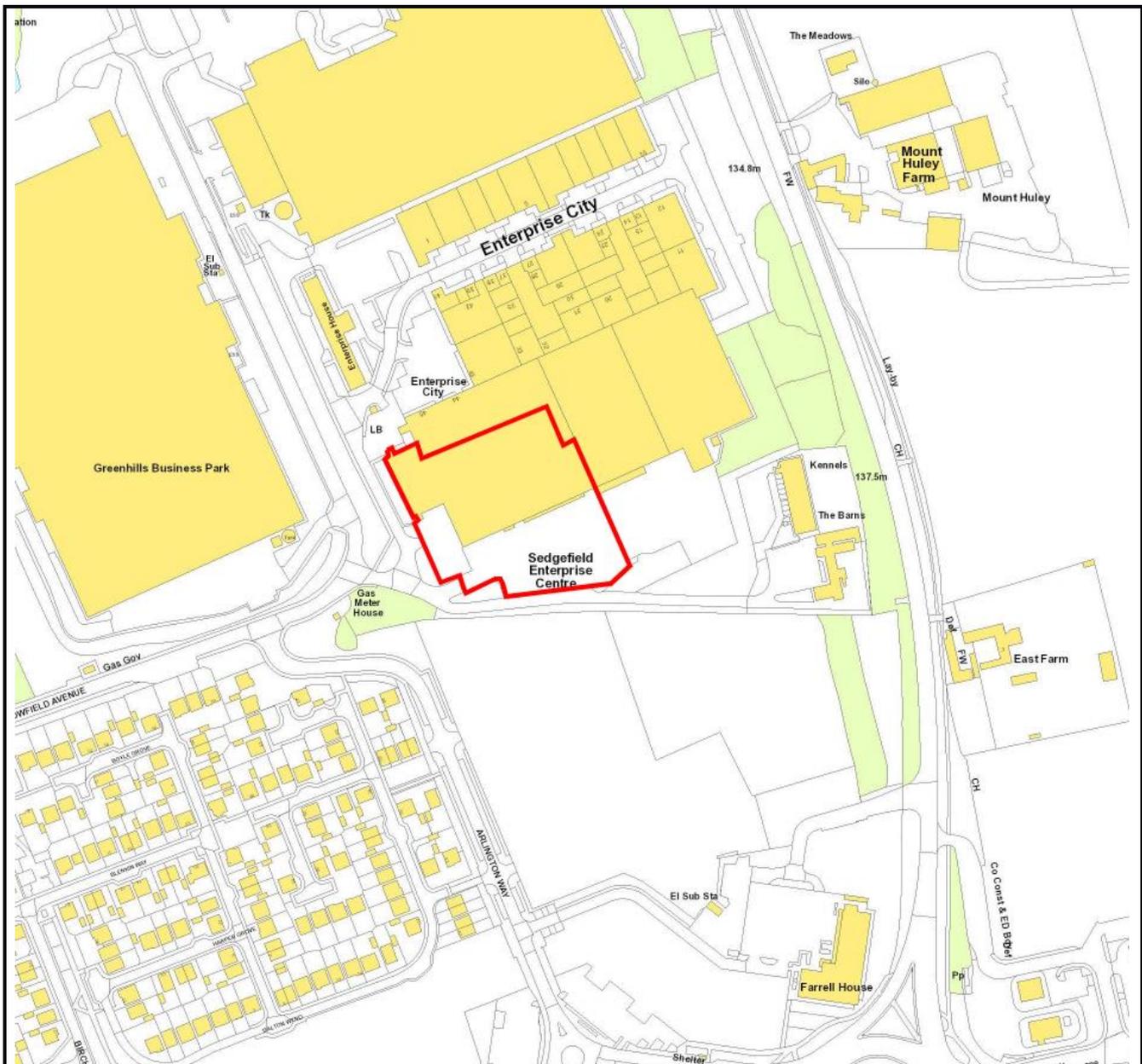
STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Policy for Waste

- National Planning Practice Guidance notes.
- County Durham Plan
- County Durham Waste Local Plan
- Statutory, internal and public consultation response



Planning Services

DM/20/01499/WAS - Change of use to clinical waste treatment and transfer facility, including autoclave, air condenser, boiler, shredder, compaction units, bin washes and extraction flues at Enterprise Point 1, Green Lane Industrial Estate.

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Comments

Date November 2020

Scale Not to Scale

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: 1) DM/20/01334/VOC

FULL APPLICATION DESCRIPTION: Variation of condition 29 of DM/18/00896/VOC to permit works between 7am-8pm Monday-Friday & 8am-6pm on Saturdays until 13/05/2021 (Amended Description)

APPLICATION No: 2) DM/20/01333/VOC

FULL APPLICATION DESCRIPTION: Variation of condition 20 of DM/18/00894/FPA to permit works between 7am-8pm Monday-Friday & 8am-6pm on Saturdays until 13/05/2021 (Amended Description)

APPLICATION No: 3) DM/20/01332/VOC

FULL APPLICATION DESCRIPTION: Variation of condition 23 of DM/18/02924/FPA to permit works between 7am-8pm Monday-Friday & 8am-6pm on Saturdays until 13/05/2021 (Amended Description)

ADDRESS: Former Millburngate House Framwelgate Waterside
Durham DH1 5TL

ELECTORAL DIVISION: Elvet and Gilesgate

CASE OFFICER: Henry Jones, Principal Planning Officer,
03000 263960, henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The former Millburngate House site is currently in the process of being redeveloped with a replacement mixed use development known as Milburngate. The entirety of the site extends to approximately 3.1 hectares. This report relates to three separate variation of condition applications, each pursuant to three planning permissions which apply to different elements of the redevelopment as a whole.
2. Application 1 (DM/20/01334/VOC) seeks to vary planning permission DM/18/00896/VOC. This planning permission applies to the entirety of the site and has planning permission in detail for a mixed use development comprising of leisure (use classes D1 and D2), retail (use class A1), financial and professional services (use class

A2), food and drink (use class A3, A4 and A5), offices (use class B1) and residential units (use class C3) together with outline planning permission with all detailed matters reserved except access for a mixed use development of office (use class B1) and a maximum of 150 residential units. The buildings and public realm forming the development would step up from the lower riverside level to the higher land towards Framwelgate Peth and would sit atop of a podium level predominantly housing four levels of parking and servicing. Under application DM/18/00896/VOC detailed planning permission was granted for a total of six blocks of development - 1A to 1E

3. Application 2 DM/20/01333/VOC seeks to vary planning permission DM/18/00894/FPA. Planning permission DM/18/00894/FPA granted an amendment to the Block 1A building with the principal change being that the block would become predominantly occupied by a 92 bed hotel as oppose to the previously approved residential occupation together with associated design amendments. Block 1A is situated at the southern end of the Milburngate site closest to the A690 Leazes Road/Milburngate Bridge.
4. Application 3 DM/20/01332/VOC seeks to vary planning permission DM/18/02924/FPA. Planning permission DM/18/02924/FPA granted an amendment to the Block 1E building with the principal change being that the block would become predominantly occupied by an office as oppose to the previously approved residential occupation together with associated design amendments. Block 1E is situated on the western side of the Milburngate site adjacent to Framwelgate Peth and in a location approximately opposite the vehicular access into the Highgate development.
5. To the north of the Milburngate site is the Radisson Blu Hotel and residential properties on Sidegate. To the south, beyond Leazes Road/Milburngate Bridge, is the Riverwalk shopping and leisure development. On the opposite side of the River Wear, to the east, lie the Freeman's Reach office development and beyond that the Walkergate development. In the west, on the opposite side of Framwelgate Peth, are residential properties at Highgate.
6. The application site is within close proximity to a number of designated and non-designated heritage assets. Notably, the site is within the Durham (City Centre) Conservation Area and within the setting of the Durham Castle and Cathedral World Heritage Site (WHS). The WHS is located approximately 200m from the application site at the nearest point.
7. The Milburngate site contains no statutory or locally designated landscapes or ecological sites. There are no designated public rights of way within the application site.
8. Redevelopment of the Milburngate site is well underway at present. Much of the podium structure beneath which servicing and car parking would be provided and above which the six building blocks would sit atop of is in situ. The steel structural framework to form Blocks 1A and 1D has been erected.

The Proposal

9. The three applications to which this report relates each seek to vary conditions which determine the hours and days of the week within which the construction phase of the development across the three existing planning permissions can occur.
10. Condition 29 of planning permission DM/18/00896/VOC, 20 of DM/18/00894/FPA and 23 of DM/18/02924/FPA each state the following;

No development works pursuant to the development hereby approved shall take place outside the hours of 7.30am - 6pm Monday to Friday (inclusive) and 8am - 1pm on a Saturday with no works on any Sunday or Bank Holiday.

Reason: To define the consent and in the interests of the amenity of neighbouring occupiers having regards to CDLP Policy U5 and Part 15 of the NPPF.

11. As submitted the applications proposed to amend each of these conditions so that they would be worded as follows;

No development works pursuant to the development hereby approved shall take place outside the hours of 7.30pm-6pm Monday to Friday (inclusive) and 8am-1pm on a Saturday with no works on any Sunday or Bank Holiday, with the exception of the period in which social distancing measures associated with COVID-19 are in place when no development shall take place outside the hours of 7am-9pm Monday to Friday and 8am to 9pm on a Saturday with no works on any Sunday or Bank Holiday. During the exceptional period the following works are prohibited between 7am-7.30am or 6pm-9pm Monday to Friday (inclusive): Piling Operations; Pile Cropping; Bulk Earthworks; and the use of any tools listed on page 157 of the approved Construction Management Plan and all piling and earth moving plant equipment, including; Vibrating Rollers, Piling Rigs, and Generators.

12. The precise amendment to the proposed wording of the conditions has changed during the course of the determination of the application. Firstly, it was confirmed that the reference to any working until 9pm on a Saturday was in error and proposed working on a Saturday was to remain unchanged with a 1pm finish.
13. Following consideration of the public representations on the applications and discussion with officers, the applicant undertook a form of public consultation exercise including a leaflet drop. This proposed a further amendment to the extended working hours whilst the COVID-19 measures are in place so as to permit working between the hours of 7am-8pm Monday-Friday & 8am-6pm on a Saturday. The description of the development was amended to reflect this. This reflects the applicant latest proposals.
14. The submitted applications provide the reasoning for the requests to vary the wording of the conditions. The applications state that the extended working hours sought will help to facilitate safe working conditions in-line with social distancing guidelines during the COVID-19 pandemic. The applications submit that the extended working hours will permit staggered arrival and departure times, ease of pressure upon public transport, help avoid peak travel hours and decrease the risk of infection whilst ensuring that the development can continue to progress.
15. The applications refer to the Written Ministerial Statement (WMS) of Robert Jenrick, the Secretary of State for the Ministry of Housing, Communities and Local Government, published on 13 May 2020 in relation to the control of construction working hours exercised by planning permissions.
16. The applicant confirmed that the duration of the exceptional period in which the extended working hours are sought would be until 13/05/2021.
17. The original grant of planning permission for the Milburngate redevelopment (DM/16/01228/FPA) was considered Environmental Impact Assessment (EIA) development under the Town and Country Planning (Environmental Impact Assessment) Regulations and was accompanied by an Environmental Statement (ES). A variation of condition or section 73 application (as submitted here) is defined as a "subsequent application" in those regulations and it is necessary to consider whether

any further information and thereby update of the previous ES is needed as a result. Under the previous section 73 application (DM/18/00896/VOC) it was considered having regard to the scope of the amendments that the previous ES submissions provided adequate information to inform on the decision. Again, in respect to this pending “subsequent application” no ES addendums are considered necessary. Nevertheless, this report has taken into account the information contained in all previous ES submissions and matters arising from statutory consultations and other responses

18. This planning application is being reported to the Strategic Planning Committee following the request of the Local Ward Member.

PLANNING HISTORY

19. Planning Permission was granted in July 2015 for the demolition of Millburngate House including remediation and enabling works in preparation for the proposed future redevelopment on the site (DM/15/01119/FPA).
20. In March 2018 planning permission was granted for the redevelopment of the site with a mixed use development comprising of leisure (use classes D1 and D2), retail (use class A1), financial and professional services (use class A2), food and drink (use class A3, A4 and A5), offices (use class B1) and 291 residential units (use class C3) together with associated access, demolition, landscaping and infrastructure works (detailed permission) and outline planning permission with all detailed matters reserved except access for a mixed use development of office (use class B1) and a maximum of 150 residential units (use class C3) and associated landscaping and infrastructure works (DM/16/01228/FPA).
21. In December 2018 planning permission was granted for the variation of condition 4 pursuant to planning permission DM/16/01228/FPA (mixed use development on Milburngate House site) so as to permit new service yard access, car parking and servicing yard amends, additional cinema screen, replacement of unit 9 leisure use with residential, insertion of mezzanine level in unit 7, movement of 7 residential units from Block 1E to Blocks 1B, 1C and 1D and replacement with storage, increase in roof terrace space at Block 1D & removal of 2 meeting rooms, fenestration amends, landscape and public realm adjustments (DM/18/00896/VOC).
22. In December 2018 planning permission was granted for a 92-bed hotel and two commercial units for shop, professional and financial service and/or food and drink uses (Class A1-A5) with associated works (identified as Block 1A) (DM/18/00894/FPA).
23. In December 2018 planning permission was granted for the erection of an office block (identified as Block 1E) (B1 use class) with flexible permission for shop, food and drink and assembly & leisure uses at ground floor level (Use Classes A1, A3 and D2) and associated public square and landscaping (DM/18/02924/FPA).

PLANNING POLICY

NATIONAL POLICY

24. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

25. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). 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.
26. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
27. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
28. *NPPF Part 5 Delivering a Sufficient Supply of Homes*. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
29. *NPPF Part 6 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.
30. *NPPF Part 7 Ensuring the Vitality of Town Centres* - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation
31. *NPPF Part 8 Promoting Healthy and Safe 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.
32. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
33. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living

conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

34. *NPPF Part 12 Achieving Well-Designed Places* – 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.
35. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
36. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - 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, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
37. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

38. 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; climate change; design: process and tools; determining a planning application; effective use of land; environmental impact assessment; flexible options for planning permission; flood risk and coastal change; healthy and safe communities; historic environment; housing and economic development needs assessments; housing needs of different groups; housing supply and delivery; land affected by contamination; land stability; light pollution; natural environment; noise; planning obligations; travel plans,; town centres and retail; travel plans, transport assessments and statements; use of planning conditions and; tree preservation orders and trees in conservation areas, water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan (CDP)

39. *Policy 1 Quantity of Development* – Outlines the levels of employment land and housing delivery considered to be required across the plan period.

40. *Policy 6 Development on Unallocated Sites* - States the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it; is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to the character of settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; encourages the use of previously developed land and reflects priorities for urban regeneration.
41. *Policy 8 Visitor Accommodation* - supports new and extensions to visitor accommodation provided it is appropriate to the scale and character of the area and not used for permanent residential occupation. In the countryside such accommodation would also need to meet an identified need, support business viability (if an extension) or involve conversion and should respect the character of the countryside and demonstrate how the location can be made sustainable. For chalets, camping and caravanning development and infrastructure, in addition to the above criteria the development would need to provide flood risk details, not be unduly prominent, have appropriate layouts and have sensitive materials, colours and scale.
42. *Policy 9 Retail Hierarchy and Town Centre Development* - Seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the County.
43. *Policy 15 Addressing Housing Need* – Establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
44. *Policy 19 Type and Mix of Housing* – Advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
45. *Policy 21 Delivering Sustainable Transport* - Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
46. *Policy 22 Durham City Sustainable Transport* - Seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
47. *Policy 25 Developer Contributions* – Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly

related to the development and fairly and reasonably related in scale and kind to the development.

48. *Policy 26 Green Infrastructure* – States that development will be expected to maintain and protect, and where appropriate improve, the County’s green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
49. *Policy 29 Sustainable Design* - Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
50. *Policy 30 Hot Food Takeaways* – Advises that where proposals within Sub-Regional, Large Town, Small Town, District and Local Centres will be refused should an unacceptable impact upon the vitality and viability of those centres result. Outside of such centres, proposals within 400 metres of an entry point of an existing or proposed school or further education college will not be permitted. The specific amenity impacts of each takeaway proposal must also be acceptable.
51. *Policy 31 Amenity and Pollution* - Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
52. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* – Requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
53. *Policy 35 Water Management* – Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
54. *Policy 36 Water Infrastructure* – Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will

be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

55. *Policy 39 Landscape* - Proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
56. *Policy 40 Trees, Woodlands and Hedges* - Proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
57. *Policy 41 Biodiversity and Geodiversity* - Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
58. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
59. *Policy 43 Protected Species and Nationally and Locally Protected Sites* - Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
60. *Policy 44 Historic Environment* - Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
61. *Policy 45 Durham Castle and Cathedral World Heritage Site* - Seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

RELEVANT EMERGING POLICY:

Neighbourhood Plan Policy

62. A neighbourhood plan is being prepared by the City of Durham Parish Council covering the whole parish area. The Plan has been examined and a Decision Statement has been issued. This means that policies can be given significant weight within the decision-making process in accordance with PPG guidance. However, this will vary from policy to policy and depend upon the nature and extent of any changes recommended by the examiner in accordance with Paragraph 48 of the NPPF.
63. The following City of Durham Neighbourhood Plan (DCNP) policies are considered relevant to these applications.
64. *Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions*
65. *Policy S2 – The Requirement for Master Plans*
66. *Policy H1 – Protection and Enhancement of the World Heritage Site*
67. *Policy H2 – The Conservation Areas*
68. *Policy H4 – Heritage Assets*
69. *Policy G1 – Protecting and Enhancing Green Infrastructure*
70. *Policy E3 – Retail Development*
71. *Policy E4 – Evening Economy*
72. *Policy E6 – Visitor Accommodation*
73. *Policy D4 – Housing for Older People and People with Disabilities*
74. *Policy D5 – Affordable Housing*
75. *Policy D6 – Building Housing to the Highest Standards*
76. *Policy T1 – Sustainable Transport Accessibility and Design*
77. *Policy T2 – Residential Car Parking*
78. *Policy T3 – Residential Storage for Cycles and Mobility Aids*

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/cdp> (County Durham Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

79. *City of Durham Parish Council* – Raise objection. It is appreciated that the Government has relaxed the rules around working hours, however, residential areas are located

immediately adjacent to the site and experience noise, dust and disturbance. Extended working hours every day until 9pm except on a Sunday would make some rooms unusable. Amended extended working hours have been proposed under the application, however, there is significant confusion due to the absence of clarity and detail in the submissions. The amended extended working hours to reduce evening working from a proposed 9pm to 8pm but increase on a Saturday is described as a zero-sum amendment. It is understood that the extended working hours have already been agreed by the Council. The application refers to a cover letter which provides further reasoning for seeking the planning permission and that the extended hours would cease in May 2021, however, this letter is not on the planning portal. The site has continued operating throughout the lockdown period so a requirement for extended working hours to make up for lost time is difficult to justify. In such an open-ended and ill-defined situation it is considered that the proposals should be refused due to a failure to provide safeguards to protect residential amenity.

80. It is stated that the contractor has failed to properly liaise with local residents on the proposals. Conditions on the planning permissions relating to construction management plan submissions include a reference on the need to include details of planned liaison with residents and procedures for handling complaints. Furthermore, the discharge of conditions are shown on the planning portal to be still pending consideration.
81. It is understood that the applications have been called to Committee and the Parish Council request that they are permitted to address Members.
82. *Highway Authority* – Raise no objections.

INTERNAL CONSULTEE RESPONSES:

83. *Environment, Health and Consumer Protection* – Raise no objections. Reference is made to the published Written Ministerial Statement released in the light of the difficulties relating to managing safe working practices within the building industry during the Covid-19 outbreak. The statement advises that Local planning authorities should not unreasonably refuse a construction site from extending working hours until 9pm.
84. The varied condition proposed, seeks to limit the type of work to be undertaken outside of the standard hours to minimise the potential for impact. It is agreed that those works and plant identified are those likely to result in the highest noise levels and are thereby the appropriate ones to prohibit during the extended working hours.
85. Operations on the site are also subject to other relevant conditions such as the construction management plan. This applies relevant thresholds in terms of noise within the construction period.
86. Considering the safeguards stated in the proposed and existing conditions and the existing high noise level in the locale, it is considered that varying the conditions to permit extended working hours would unlikely likely to lead to a significant impact on amenity.
87. In addition, environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 have been assessed and it is considered that the development is unlikely to cause a statutory nuisance.

PUBLIC RESPONSES:

88. The application has been publicised by way of press notice, site notice, publication on the weekly list and individual notification letters to neighbouring occupiers.
89. 11 letters of representation have been received on the applications each raising objections. Some representations have only been submitted on some of the three applications. Where this has occurred, that representation has been treated as a representation on all three. The matters raised are summarised below.
- The hours proposed are very unsociable
 - Unacceptable noise, dust and inconvenience
 - Residents are working from home at the moment and cannot open windows due to the noise, parts of the home are unusable
 - The noise and disturbance can be accepted during the day but not very late into the evening
 - The extended working hours are not justified because works have continued on the Milburngate site throughout the pandemic and the contractor is being exploitative
 - Confirmation is requested that the height of the proposed hotel (Block 1A) currently being erected is as per that agreed
 - There has been a lack of consultation with residents
 - The contractor has not been maximising their existing permitted hours with works ceasing at 3pm on a Friday with no works on a Saturday morning in recent months and this reaffirms that construction is not delayed
 - Full justification is missing in the application documents
 - The extended working hours would include the winter months resulting in additional lights and associated pollution
 - Throughout the redevelopment of this site planning conditions have repeatedly been “pushed to the limits” with reports made in the past of working unauthorised hours
 - One resident requests to speak at Planning Committee
 - Whilst the applicant has been open and transparent the contractor has been less so and there is a refusal from the contractor to engage with local stakeholders
 - It is questioned whether mitigation measures such as road sweeping and wheel washing facilities are actually taking place
 - Having regard to the Governments WMS - very compelling reasons for rejection apply and if approval is granted very robust conditions are necessary
 - The WMS advice is giving little regard to the effect on tourism as local hotels try to recover
 - A number of suggested alternative restrictions/conditions on working hours and construction management measures are proposed
 - More intelligent automation of the traffic lights are required to prevent queuing from Framwellgate Bridge at 7.15am
90. *Cllr David Freeman (Elvet and Gilesgate Ward)* – Requested that the applications be heard at Planning Committee if the recommendation is for approval and cited the comments he had received from residents that the extension of hours is unacceptable close to residential areas such as Sidegate and Highgate.
91. *Sidegate Residents Association* – Whilst it is appreciated that the Government has relaxed the rules in regard to working hours it is understood that this is to compensate for time lost during the coronavirus lockdown but Milburngate has been operational throughout and sometimes at weekends outside permitted hours. The request has not been justified and a covering letter referenced is not on the planning portal. It is stated

that the contractor has failed to properly liaise with local residents on the proposals. Conditions on the planning permissions relating to construction management plan submissions include a reference on the need to include details of planned liaison with residents. It is stated that the last liaison with Sidegate Residents Association was in February.

92. Furthermore, Diamond Terrace in particular has had to endure months of noise and dirt as a result of the Framwell House development and noise is heard from the new station car park. The Council must bear in mind that should the application be approved residents will be subject to disturbance 14 hours a day 6 days a week for a year.
93. *Radisson Blu Hotel* – State that there has been a detrimental effect on both the business demand and experience for guests during the construction works. Working hours before 8am and after 6pm will certainly impact upon guests. On a Saturday there is an increase in leisure guests who would be affected. The extended hours are not justified as construction has continued throughout the pandemic whilst other industries such as hospitality have been forced to close. Past requests have been made that environmental monitoring records for the site are within approved limits and the developer has failed to have monitoring equipment in the locations required. There is a lack of confidence that appropriate enforcement action would be taken if needed.

APPLICANTS STATEMENT:

94. The Government published a written ministerial statement in May 2020 on planning and construction; recognising that the construction industry needs to be able to adapt its normal working practices in response to COVID-19. The Ministerial Statement establishes an expectation for LPA's to approve requests to extend construction working hours temporarily to ensure safe working in line with social distancing guidelines, unless there are very compelling reasons against this. Such an extension to construction working hours will enable construction staff to stagger arrival times to site, ease pressure on public transport and help decrease the risk of coronavirus infection.
95. Whilst Tolent were able to continue work on site throughout lockdown, this was limited to critical works with a significantly reduced team. The site is fully compliant with all of the CLC and UK Build Guidance issued by the Government, including one-way systems, increased welfare arrangements, sanitising stations, daily briefings to all employees and signage with information about prevention and reporting procedures. As a result of these measures the site has been unable to operate at full capacity, which has in turn impacted upon the construction programme and completion of the works.
96. As such, the submitted applications LPA seek to amend the construction hours associated with the site in the following manner:

Current Working Hours:

Mon to Fri 07:30 to 18:00

Saturday 08:00 to 13:00

Proposed Working Hours:

Mon to Fri 07:00 to 20:00

Saturday 08:00 to 18:00

97. The proposed hours variation will enable longer working hours, allowing staggered arrival times to site and the continued use of appropriate social distancing measures whilst also ensuring that the development can continue to progress without incurring further delays to the construction programme.

98. Construction will not always be required to the full extent of the proposed hours and during some times the works may be of a lower level, but the variation will ensure flexibility when required. Tolent are committed to the health and wellbeing of those who live and work around the site and have carefully considered what activities will be carried out during the extended hours to ensure there is no disruption to the local community. All activities are carefully planned in advance and every effort will be made to ensure that the activities on site do not cause nuisance or concern to the local community.
99. In order to limit the impacts of the extended hours on residents, Tolent are committed to not carrying out the following activities during the extended hours:
- Mechanical break or cropping of piles;
 - Mechanical cutting or breaking of concrete;
 - Concrete pumping;
 - Any form of scab-baling or cleaning of concrete;
 - Mechanical fixing of floor decks;
 - Heavy duty pumps or generators;
100. All current mitigation measures will also remain in place throughout the duration of the extended works.
101. It should also be noted that the Council's Nuisance Action Team have reviewed and commented on the proposed hours variation and consider that the proposed variation will not have a significant impact on amenity. The Nuisance Action Team have also assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and are satisfied that the development is unlikely to cause a statutory nuisance.

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

102. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those the previous permission was granted was subject to or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
103. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
104. Under the original planning permission DM/16/01228/FPA and subsequent planning permissions DM/18/00896/VOC, DM/18/00894/FPA and DM/18/02924/FPA the main planning issues for consideration were; the principle of the development; locational

sustainability; visual, townscape and heritage impact; residential and occupier amenity; highway safety/issues; ecology; flood risk and drainage; viability and planning obligations.

105. The principle of the redevelopment of the Milburngate site as a whole has been established with significant progression on site and this matter should not be revisited under this application. The specific proposals under these three applications are considered to raise no new implications in regard to the majority of key matters discussed under the existing planning permissions.
106. Since the grant of planning permissions DM/18/00896/VOC, DM/18/00894/FPA and DM/18/02924/FPA significant changes in the planning policy context have occurred. The City of Durham Local Plan has been replaced with the County Durham Plan (CDP). The Durham City Neighbourhood Plan (DCNP) can now proceed to Referendum and weight to its policies can be attributed. The suite of CDP and DCNP policies that are relevant to the development proposals on Milburngate as a whole are listed in earlier sections of this report. However, the majority of these policies provide advice on a number of planning matters which relate to the previous grants of planning permission as a whole. The requested variation of condition relates solely to the hours in which construction activities can occur and the implications of this is the matter for determination. The consideration of the proposed variation of the construction working hours conditions, therefore, revolves around the implications upon residential amenity and pollution and the planning policies and guidance which relate.

Residential Amenity and Pollution

107. As discussed within The Proposal section of this report, the proposed amendments to the construction working hours are requested so as to help facilitate safe working conditions in line with social distancing guidelines during the COVID-19 pandemic and provide the site with the additional flexibility which longer working hours provide.
108. On 13 May 2020 a Written Ministerial Statement (WMS) by Robert Jenrick, the Secretary of State for the Ministry of Housing, Communities and Local Government, was published together with some accompanying guidance in relation to the control of construction working hours exercised by planning permissions. The accompanying guidance states that the purpose of the WMS is to outline that it expects Local Planning Authorities to approve requests to extend construction working hours temporarily to ensure safe working in line with social distancing guidelines until 9pm, Monday to Saturday, unless there are very compelling reasons against do so.
109. Together, key elements of the guidance and WMS are summarised as follows.
 - It is suggested that modest or short-term changes to construction working hours may be agreed informally and LPAs should use their discretion to not enforce against a breach of working hours. Where longer term or more significant changes to working hours are sought the LPA may request formal applications be submitted
 - Where an application is deemed necessary, it encourages applicants to submit management and good practice proposals
 - LPAs should ensure that decisions are issued quickly suggesting within 10 days where this is possible
 - Local Planning Authorities should adopt a swift and positive approach to requests for greater working hour flexibility. Requests can be refused but requests to extend working hours until 9pm, Monday to Saturday should not be refused without very compelling reasons for rejection. These reasons could include the significant impact on neighbouring businesses or uses, such as care homes, which are particularly

sensitive to noise, dust or vibration, which cannot be overcome through other mitigation, or where impacts on densely populated areas would be unreasonable

- In some cases, such as in areas without residential properties, extending working hours beyond this, including allowing 24 hour working where appropriate, may be justified
- Requests to extend working hours should be proportionate and should not involve working on Sundays or bank holidays and any temporary changes to construction working hours conditions granted by local planning authorities should not extend beyond 13 May 2021

110. Since May the Government has also introduced a further “fast track” consent route through a legislative amendment to section 74B of the Town and Country Planning Act 1990, enacted by the Business and Planning Act 2020. This is again accompanied by guidance.

111. It is important to note that these three pending applications have not been submitted under section 74B of the Town and Country Planning Act and are, therefore, not applications to which the fast track consent route applies. However, given that the accompanying guidance provides further advice on requests for amendments to construction working hours it is still considered of relevance. This guidance makes it clear that the WMS (summarised above) still applies.

112. Key elements of the fast track consent advice can be summarised as follows.

- The aim of the fast track consent route is to enable urgent changes to construction working hours to support safe construction in line with the government's social distancing guidance for sites
- Advice is provided on the information requirements of the applicant
- Liaison with the local community is encouraged as are proposals/plans to mitigate the impacts of the extended construction hours
- Reasonable and proportionate changes to construction hours should be accepted where they support safe construction working in line with social distancing guidance and enable construction sites to operate, unless there are other compelling reasons against the change
- Key considerations for the LPA include; the justification for the request; any mitigation measures; the original reasons for the restriction on the construction hours; the extent of additional working
- In the determination of the fast track consent application consideration to sites particularly sensitive to the amended hours should be given this would include; those seeking to recover from the impacts of coronavirus; residential areas particularly sensitive to the development; EIA development where limitations were put in place to limit impacts on health; development subject to Habitats Regulations Assessment; sites of ecological/environmental interest where the impacts could be environmentally significant
- Other regulatory regimes and legislation remain in force and unaffected such as the Environmental Protection Act 1990 and Control of Pollution Act 1974

113. It should be noted that the WMS and accompanying guidance published in response to the Covid-19 pandemic were not solely in response to any need to make up lost time due to the closure of construction sites. This may be applicable to some sites. The Milburngate site has not ceased working during the pandemic but the guidance produced on the extended working hours relates to other implications that Covid-19 may have on sites. This would include the implications on the number of staff on site at any one time and other implications that Covid-19 may have on the speed of development delivery.

114. The published WMS and accompanying guidance do not alter that planning law requires that applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The WMS and guidance outlined above are material considerations, as is the NPPF. Officers view is that the WMS and accompanying guidance should be attributed significant weight when considering planning applications to which they are applicable, given how recently they have been published and that they have been published as a direct response to the ongoing Covid-19 pandemic.
115. In regard to CDP policies which provide advice on the potential impacts of the extended working hours upon amenity, Policy 31 states that proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level. Development which does not minimise light pollution and demonstrate that the lighting proposed is the minimum necessary for functional or security purposes will not be permitted. The justification to the policy highlights that its advice in regard to the potential polluting impacts of development applies to both the construction and operational phases of development.
116. Other CDP policies are also considered relevant. Policy 6 amongst its advice, states that proposals should be compatible with, and not prejudicial to existing, allocated or permitted use of adjacent land.
117. CDP Policy 25 provides advice on the use of planning conditions and planning obligations and amongst its advice states that planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
118. CDP Policy 29 advises that development should minimise impacts upon existing occupants of existing adjacent and nearby properties with consideration given to the health impacts of development.
119. Key relevant advice within the NPPF is contained in Part 15 which at paragraph 170 advises that planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and that development should wherever possible help to improve local environmental conditions such as air quality and water quality. Paragraph 180 advises that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. In doing so it is advised that potential adverse impacts resulting from noise should be mitigated and reduced to a minimum and avoid noise giving rise to significant adverse impacts on health and quality of life and limit the impact of light pollution. Paragraph 181 advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants and seek opportunities to improve air quality or mitigate impacts.
120. DCNP Policy S1 requires that all development proposals demonstrate a sequence of principles one of which includes a requirement of avoiding air, land and water pollution

and maximising waste avoidance, matters of relevance to construction activities. The Examiners Report into the DCNP has recommended some amendments to Policy S1 where the current wording is considered to be too restrictive in some instances and thereby the weight to be attributed to the policy is reduced.

121. Notable sensitive receptors in the immediate vicinity of the site most likely to be affected by any changes to working hours include;
- Residential properties at Highgate. The Milburngate planning application site includes Framwelgate Peth and so Highgate abuts the site to the west. However, the nearest elements of the main site operations themselves, east of Framwelgate Peth, would be located approximately 25m away at the nearest point
 - The Radisson Blu Hotel is located just north of the Milburngate site with the southernmost gable of the hotel within approximately 7m of the site
 - Residential properties at Sidegate and Diamond Terrace are located beyond the hotel. No. 7 Sidegate is the closest to the boundary of the site with the house itself approximately 60m away
 - Residential flats at St Annes and St Godrics Court approximately 70m to the south-west of the main working areas of the site
 - Purpose built student accommodation at Dun Holm House located approximately 20m south of the main working areas of the site
 - Residential flats at St Clements Wharf on the eastern side of the River Wear are approximately 80m from the main working areas of the site
122. The currently approved working hours for the site permit working between 7.30am - 6pm Monday to Friday (inclusive) and 8am - 1pm on a Saturday.
123. The proposed amendments to the working hours have altered during the course of the determination of the applications. When first submitted, the applications proposed that the amended working hours would be 7am-9pm Monday to Saturday inclusive. The applicant then confirmed that the application to extend the Saturday working had been made in error and requested that Saturday working remain 8am – 1pm only.
124. However, since this time further discussions have been held with the applicant and having regard to the responses received to the consultation exercises on the application.
125. The final amendments proposed would permit a 7am start at Monday to Friday and an 8pm finish Monday to Friday and, thereby, an additional 2.5 hours work per day through the week. On a Saturday the start time would remain at 8am but would permit workings to continue until 6pm – a further 5 hours on a Saturday. No work would be permitted on a Sunday or bank holiday.
126. Therefore, the amendments would permit an increase in the working week on site from a currently approved 57.5hrs to 75hrs (30% increase).
127. The gist of the WMS and published guidance on extended construction hours is supportive of extensions of up to 9pm Monday – Saturday. In its final form, the applicant has not applied to vary the working hours to this extent. If the application had followed a suggested approach in the WMS of up to 9pm then the total working week would extend to 80.5hrs (40% increase in current hours).
128. Working the proposed revised hours clearly has the potential to detrimentally affect nearby residents and occupiers. The duration of working would be greater in overall terms and the 7am start and 8pm finish during the week and finish at 6pm on a Saturday

would introduce working at more anti-social times than currently approved. However, the amendment to an 8pm proposed finish as oppose to 9pm originally proposed during the week, with an increase in Saturday working to compensate, is in officers view, a beneficial one for local residents. It will mean during the week more of the evening will remain undisturbed and this is at a time when some residents will be working from home throughout the week. It is acknowledged local businesses may not consider this the case and arguably increased working hours of Saturday could be deemed worse than evening working.

129. In response to the public consultation exercise on the application, objections have been raised with some responses citing past and subsisting amenity and pollution issues caused by the development.
130. The development is a major mixed-use redevelopment in a City Centre location. The scale and duration of the build is such that the temporary construction phase of the development is going to cause some adverse impacts. In granting planning permission the potential for some harmful impact was noted in regards to noise, dust, light and construction vehicle movements but ultimately none of these impacts were deemed to be so significant as to warrant refusal of any of the applications. Discussion on the temporary impacts of the construction activities was included within the ES submissions. Overall, and inclusive of the operational phase of development, no unacceptable impacts were identified in regards to matters of residential amenity or pollution under the consideration of applications DM/18/00896/VOC, DM/18/00894/FPA or DM/18/02924/FPA. Conditions on both working hours and a Construction Management Plan (CMP) were imposed to help manage the impact of the developments. If planning permission is granted for the extended working hours, this CMP would still apply to the varied planning permissions. Key elements of the CMP include;
- Wheel washing facilities and road cleaning to reduce mud on roads
 - Vehicles transporting loads to be covered/sheeted to reduce potential for debris
 - Delivery scheduling to control traffic and congestion at the site
 - Use of banksman/traffic marshal
 - Site hoarding perimeter to site
 - Liaison with local residents and stakeholders of works progression
 - Water dampening of stockpiled materials
 - Avoidance of engines idling or revving
 - Use of environmental monitoring devices which monitor noise, vibration, air quality and dust
131. Officers consider the acceptability of the proposals and implications upon residential amenity is finely balanced. The scale of the development and proximity to nearby sensitive receptors means that the development will continue to raise potentially adverse amenity impacts until the cessation of works. Complaints have been received during the construction phase of the development and public responses on these applications in part make reference to this as well as their concerns over the implications of extended working hours. Extending the hours within which activities can occur clearly increases the risk of any harm over the longer period.
132. The thrust of the WMS and related guidance on requests for extended construction hours essentially states that such requests should be approved unless there are very compelling reasons to refuse. There are sensitivities specific to the site. Amongst these is the significant scale and nature of the development and, therefore, the potential for the development to cause amenity issues. If the development were much smaller for example, the potential for any adverse impacts would likely be less. There are sensitive

receptors both close by and those where they themselves will be recovering from the impacts of Covid-19.

133. It should be noted that there are cumulative impacts with other development in the area, this is a matter referenced in the public responses. Sites where cumulative impacts could occur would also include the redevelopment to provide the County Council's Office HQ on the opposite side of the River Wear whilst works within the highway on Framwelgate Waterside are proposed as part of a scheme to include a coach drop-off area.
134. There are mitigating factors to consider also. The extended working hours period would apply until 13 May 2021. The development is relatively well advanced and many of the activities most likely to cause amenity nuisances have already been undertaken. Piled foundations have been completed on the site and piling is one of the construction activities which most frequently can pose nuisances of noise and vibration. For much of the preceding phases of the development there has been significant earthworks occurring with significant areas of exposed earth and bunding which can for instance cause dust transfer.
135. Some other activities again most associated with causing noise or other amenity issues are not proposed to be permitted in the extended periods, permitted only during the existing construction hours which apply to the site.
136. These works are detailed as; piling; pile cropping and use of piling rigs; bulk earthworks; use of any vibrating rollers; use of generators; and the use of certain particularly noisy activities listed within part of the CMP including cutting, breaking out and drilling concrete and use of wacker plates.
137. Consultation has occurred with Environment, Health and Consumer Protection and they have raised no objections to the proposed varied conditions. Reference is made to applicants' proposals to limit the type of work to be undertaken outside of the standard hours to minimise the potential for impact. Environment, Health and Consumer Protection have agreed that those works and plant identified are those likely to result in the highest noise levels and are thereby the appropriate ones to prohibit during the extended working hours. Environment, Health and Consumer Protection note that the application is subject to a construction management plan. Considering the safeguards stated in the proposed and existing conditions and the existing high noise level in the locale, Environment, Health and Consumer Protection consider that varying the conditions to permit extended working hours would unlikely lead to a significant impact on amenity.
138. The consideration of the variation of the conditions largely rests on the degree of change that would occur as a result and whether this is unacceptable having regard to likely impacts in the context of the WMS, related guidance, the Development Plan and other material planning considerations. If the extent of change is deemed unacceptable in this context then the applications should be refused and the existing conditions continue to subsist.
139. Officers conclude that the degree of change is not such that they conclude that refusal should be recommended on the grounds of impacts upon residential amenity. The potential for temporary adverse amenity impacts would increase to an extent as a result of the proposals. However, officers consider that this would not amount to the very compelling reasons that the WMS and related guidance advises upon. Set against the relevant CDP advice officers consider that whilst some adverse impacts could result from any approval of the applications, these would not be at an unacceptable level such that it would be in conflict with the key Policy 31 nor the relevant advice within Policies

6 and 29. There is a degree of conflict with DCNP S1 which seeks to avoid pollution, given that the proposal would permit some construction phase polluting activities over a longer period of the day. The Examiner's Report into the DCNP advises that amendments to DCNP Policy S1 should be made, thereby reducing the amount of weight to be attributed to it. Having regard to advice contained within Part 15 of the NPPF, acknowledging the potential for some further harmful temporary construction effects, the impacts of the varied conditions are considered to not be unacceptable in amenity terms.

Visual, Townscape and Heritage Impact

140. The application site is within close proximity to a number of designated and non-designated heritage assets. Notably, the site is within the Durham (City Centre) Conservation Area and within the setting of the Durham Castle and Cathedral World Heritage Site (WHS). The WHS is located approximately 200m from the application site at the nearest point.
141. Under the existing planning permissions, together with any impact upon them caused by the completed, operational phase of the development consideration was given to the potential impacts of the construction phase of the development. In terms of Townscape Character and Visual Impact and the Historic Environment the ES concludes that there would be moderate adverse townscape and visual effects and moderate adverse effects upon the setting of some heritage assets as a result of construction activities though that these effects could be mitigated somewhat further through particular construction management methods. However, these harmful impacts would be temporary in nature and are an inevitable consequence of the visibility of the hoardings, machinery, cranes and the like as a result of such a large site being redeveloped. The majority of these impacts it is considered would be unaffected by the proposed extension to working hours. Much of the impact of construction is a visual one and this would occur irrespective of the duration of works – plant and cranes for example will be on site overnight regardless of when works cease and lighting is needed during winter months and for security and safety purposes. Heritage assets can be affected by impacts which affect their ambience and the manner in which they are experienced. In this regard the impacts of the construction phase of the development could increase through the extended working hours, for instance through noise being heard in the Conservation Area when it would otherwise have ceased. However, as explained, particularly noisy activities are proposed to be prohibited during the extended hours providing mitigation in this regard.
142. Overall, officers consider the impacts of an extension to the working hours result in no additional harmful impacts upon the townscape or heritage assets from the construction phase of the development of any significance. In the round, the overall impacts of the proposals subject to the three planning applications are, in respect to matters of townscape, visual and heritage assets, commensurate with the existing planning permissions. Under planning permission DM/18/00896/VOC which relates to the whole site and DM/18/00894/FPA which relates to the hotel, the overall townscape and heritage impacts of the development were deemed acceptable with no harm identified to heritage assets. In regard to these applications the impacts of the development including the extended construction hours are considered to accord with relevant CDP policies 6, 8, 29, 30, 39, 40, 44 and 45 and relevant guidance within Parts 12, 15 and 16 of the NPPF where they provide advice on townscape, visual and heritage matters. The developments would also be in accordance with Policies E6 and H4 of the DCNP. DCNP Policies S1, H1, H2 each seek that the significance of heritage assets are not only sustained and conserved but also enhanced. Whilst officers consider that the significance of heritage assets would be conserved and sustained under the developments, it is considered that the proposals as a whole would not amount to

enhancement and there is a degree of conflict with these policies as a result. and The Examiner's Report advises that amendments to CDNP policies S1, H1 and H2 should be made, thereby reducing the amount of weight to be attributed to them, whilst it is recommended that Policy H4 be deleted from the plan and it is therefore considered that no weight should be afforded to this policy.

143. Due to its scale and appearance the Block 1E office (DM/18/02924/FPA) development was considered to result in some less than substantial harm to Durham (City Centre) Conservation Area and the WHS, however, the public benefits of the development were considered to outweigh this harm. The impacts of the Block 1E development overall, inclusive of the extended construction hours, are considered to remain the same. As a result of the adverse impact due to the scale and appearance of the development, there would be a degree of conflict with CDP Policies 29, 44 and 45 and CDNP Policies S1, H1, H2 and H4 where they provide advice on townscape, visual and heritage matters.

Other Issues

144. Officers have consulted with the Highway Authority so as to consider the potential highways implications of the vehicular movements to the construction site including staff and HGVs occurring beyond the existing approved hours. The Highway Authority have raised no objections in this regard. The highways related implications of the variation of condition applications are considered acceptable and in accordance with relevant CDP Policies 6 and 21, CDNP Policy T1 and Part 9 of the NPPF. The Examiners Report into the CDNP recommended some amendments to Policy T1 and as a result the amount of weight to be attributed to the policy should be reduced.
145. The majority of public representations made in regard to the application relate to matters of amenity and pollution on which there is a dedicated section of this report. There are other comments received. The comment in relation to the height of the Block 1A hotel development is not directly related to the applications for varied conditions. Nevertheless, the scale of the height of the block being erected is considered to be in accordance with the approved plans. A reference is made to an amendment to the automation of the traffic lights being required to prevent queuing from Framwellgate Bridge at 7.15am. This is not a matter controlled under the planning permissions for the development.
146. The Milburngate development includes the provision of residential units where obligations in relation to affordable housing and monies towards open space and recreation would ordinarily be required to mitigate the impacts of the development. Following an assessment of development viability which included the Council employing two independent consultants to appraise viability issues, it was accepted under the original grant of planning permission that the viability of the redevelopment was marginal and, as a result, affordable housing provision and open space/recreation provision was not sought at that time. However, so that the Council could retain the ability to review the viability of the site in the future a S106 legal agreement was entered into which included obligations that at certain trigger points viability reviews would be required. If it was demonstrated that the applicants profit exceeded a certain level then 50% of that surplus would be required to be paid to the Council for the provision of affordable housing and/or open space and recreation provision. So that these obligations continue to subsist in regard to these three pending applications, in the event of an approval, a Deed of Variation of the existing S106 legal agreement would be required.
147. Some conditions imposed on the three existing planning permissions have been discharged or partially discharged. In the event of the approval of the applications there would the requirement to rationalise the suite of conditions applicable to each

application to account for these condition discharges and ensure that the most up to date approved plans and documents are referenced.

CONCLUSION

148. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In light of the recent adoption of the CDP, the Council now has an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
149. Paragraph 12 of the NPPF advises that where a planning application conflicts with an up to date development plan permission should not usually be granted. However, local planning authorities may make decisions that depart from a development plan where material considerations in a particular case indicate that the plan should not be followed.
150. In the determination of variation of condition applications (Section 73), the LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted (or that it should be granted unconditionally). If the variation sought is considered unacceptable then the application should be refused and the wording of the conditions on the previous planning permission would continue to subsist/apply to the development.
151. Though the planning policy context now applicable to the development has changed since the previous grants of planning permission, the redevelopment of the Milburngate site as a whole has been established with significant progression on site and this matter should not be revisited under this application. The focus of the consideration of the application should be on the impacts of the amendments to the planning permissions proposed and this in the light of the relevant up to date planning policy position.
152. The key consideration is considered to relate to the impacts of the extended working hours in amenity and pollution terms, with any potential increased heritage and highways impacts also important and relevant considerations.
153. The thrust of the WMS and related guidance on requests for extended construction hours essentially states that such requests should be approved unless there are very compelling reasons to refuse.
154. The acceptability of the requested extended construction working hours is considered to be finely balanced and there are sensitivities applicable to the site and development and the potential for adverse impacts to occur upon receptors. However, none of these impacts are considered to amount to the very compelling reasons which the relevant advice states are required to refuse such requests.
155. The applications have been assessed against the policies of the CDP, the DCNP and NPPF. Whilst a degree of conflict with some policies is identified this is on the basis of considering the redevelopment of the site as a whole inclusive of the proposed variance to the conditions and the principle of the redevelopment which is ongoing has been established by the existing planning permissions. No objections to the development are raised on any other grounds material to the applications and approval is therefore recommended on each application.

RECOMMENDATION

That the applications be **APPROVED** subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following:

- i) A Deed of Variation of the S106 legal agreement pursuant to planning permissions DM/18/00896/VOC, DM/18/00894/FPA and DM/18/02924/FPA so that the viability review obligations in respects to affordable housing and open space and recreational space contributions reference these revised planning applications DM/20/01334/VOC, DM/20/01333/VOC and DM/20/01332/VOC

And subject to the following conditions:

DM/20/01334/VOC

1. Applications for approval of reserved matters pursuant to Zones 2 and 3 of the development as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1 shall be made to the Local Planning Authority before 12 March 2021 and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: To ensure planning permissions are not extended by Section 73 applications and that the time limit remains consistent to the original consent DM/16/01228/FPA and pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Approval of the details of appearance, landscaping, layout and scale ("the reserved matters") pursuant to Zones 2 and 3 of the development as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1 shall be obtained from the Local Planning Authority before the commencement of development (other than demolition, preliminary site excavation, enabling and remedial works) of each of those phases of development.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents and any recommendations, mitigation measures and adherence to parameters contained therein:

(DM/16/01228/FPA and DM/18/00896/VOC)

2962-FBA-00-00-DR-A-05_10-0_101 P1 EXISTING SITE LOCATION
2962-FBA-00-00-DR-A-05_10-0_102 P1 EXISTING SITE LOCATION
2962-FBA-00-B1-DR-A-00_10-0B100 PROPOSED LEVEL B1 GA MASTERPLAN (31.0M AOD) P1.4
2962-FBA-00-00-DR-A-00_10-00000 PROPOSED LEVEL 00 GA MASTERPLAN (33.5M A.O.D) P1.6
2962-FBA-00-01-DR-A-00_10-00100 PROPOSED LEVEL 01 GA MASTERPLAN (36.5M A.O.D) P1.6
2962-FBA-00-02-DR-A-00_10-00200 P1.6 PROPOSED LEVEL 02 GA MASTERPLAN (39.5M A.O.D)
2962-FBA-00-03-DR-A-00_10-00300 PROPOSED LEVEL 03 GA MASTERPLAN (43M A.O.D) P1.4
2962-FBA-00-04-DR-A-00_10-00400 PROPOSED LEVEL 04 GA MASTERPLAN (46M A.O.D) P1.4
2962-FBA-00-05-DR-A-00_10-00500 PROPOSED LEVEL 05 GA MASTERPLAN (49M A.O.D) P1.4

2962-FBA-00-06-DR-A-00_10-00600 PROPOSED LEVEL 06 GA MASTERPLAN (52M A.O.D) P1.3
 2962-FBA-00-07-DR-A-00_10-00700 PROPOSED LEVEL 07 GA MASTERPLAN (55M A.O.D) P1.3
 2962-FBA-00-08-DR-A-00_10-00800 PROPOSED LEVEL 08 GA MASTERPLAN (58M A.O.D) P1.3
 2962-FBA-00-09-DR-A-00_10-00900 PROPOSED LEVEL 09 GA MASTERPLAN (61M A.O.D) P1.3
 2962-FBA-00-10-DR-A-00_10-01000 PROPOSED LEVEL 10 GA MASTERPLAN (64M A.O.D) P1.3
 2962-FBA-00-11-DR-A-00_10-01100 PROPOSED LEVEL 11 GA MASTERPLAN (67M A.O.D) P1.1
 2962-FBA-00-12-DR-A-00_10-01200 PROPOSED LEVEL 12 GA MASTERPLAN (70M A.O.D) P1.1
 2962-FBA-01-00-DR-A-00_10-0_40 REV P1 PHASE 1 BASEMENT ELEVATION ELEVATION B-B-SERVICE ENTRANCE
 FB-SK-2962-20.06.18-BH-02 SECTIONAL ELEVATION OF SERVICE YARD ENTRANCE - SECTION 73 AMENDMENT
 2962-FBA-01-00-DR-A-01_10-1A_51 BLOCK 1A ELEVATIONS P1.1
 2962-FBA-01-00-DR-A-01_10-1B_51 BLOCK 1B ELEVATIONS P2
 2962-FBA-01-00-DR-A-01_10-1C_51 BLOCK 1C ELEVATIONS P2
 2962-FBA-01-00-DR-A-01_10-1D_51 BLOCK 1D ELEVATIONS P2
 2962-FBA-01-00-DR-A-01_10-1E_51 BLOCK 1E ELEVATIONS P1.1
 2962-FBA-01-00-DR-A-01_10-1F_51 BLOCK 1F ELEVATIONS P2
 2962-FBA-00-00-DR-A-00_10-0_20 TYPICAL ROOF TERRACE BAY P1
 2962-FBA-00-00-DR-A-00_10-0_21 TYPICAL BAY P1
 2962-FBA-00-00-DR-A-00_10-0_22 TYPICAL DUPLEX BAY P1
 2962-FBA-00-00-DR-A-00_10-0_23 TYPICAL PLANT BAY P1
 2962-FBA-00-00-DR-A-00_10-0_24 TYPICAL LOFT BAY P1
 2962-FBA-00-00-DR-A-00_10-0_25 TYPICAL GABLE P1
 2962-FBA-00-00-DR-A-00_10-0_26 THREE BAYS P1
 2962-FBA-00-00-DR-A-00_10-0_27 TYPICAL ELEVATION BAY COMPOSITION P1
 2962-FBA-00-00-DR-A-25_10-0_11 TYPICAL EXTERNAL FACADE DETAIL P1
 2962-FBA-00-00-DR-A-00_10-0_01 PROPOSED SITE SECTION EAST P1.2
 2962-FBA-00-00-DR-A-00_10-0_02 PROPOSED SITE SECTIONS NORTH P1.2
 2962-FBA-00-00-DR-A-00_10-0_71 PROPOSED SITE ELEVATIONS EAST AND WEST P1.2
 2962-FBA-00-00-DR-A-00_10-0_72 PROPOSED SITE ELEVATIONS NORTH AND SOUTH P1.2
 2962-FBA-00-00-DR-A-00_10-0_75 PROPOSED OUTLINE SITE ELEVATION NORTH AND SOUTH P1.1
 2962-FBA-00-00-DR-A-00_10-0_76 SECTION THROUGH SIDEGATE P1
 2962-FBA-00-00-DR-A-00_10-0_77 SECTION LINE KEY P1
 2962-FBA-00-00-DR-A-00_10-0_78 BLOCK 1A ELEVATION WITH PROPOSED GATES DEVELOPMENT P1
 29622962-FBA-00-00-DR-A-05_10-110 PLAN 1 - PHASING PARAMETER PLAN
 29622962-FBA-00-00-DR-A-05_10-113 PLAN 2 - BLOCK PARAMETER PLAN
 29622962-FBA-00-00-DR-A-05_10-114 PLAN 3 - ACCESS AND CIRCULATION PARAMETER PLAN
 29622962-FBA-00-00-DR-A-05_10-115 PLAN 4 - ZONAL DEVELOPMENT PARAMETER PLAN
 29622962-FBA-00-00-DR-A-05_10-116 PLAN 5 - LANSDCAPE PARAMETER PLAN
 2962-FBA-00-00-DR-A-05_10-117 PLAN 6 - BUILDING HEIGHT PARAMETER PLAN P1.1
 2962-FBA-01-00-DR-A-00_10-0_11 P1 DETAILED EXTRACT SHEET 1
 2962-FBA-01-00-DR-A-00_10-0_12 P1 DETAILED EXTRACT SHEET 2
 2962-FBA-01-00-DR-A-00_10-0_13 DETAILED EXTRACT SHEET 3
 2962-FBA-01-00-DR-A-00_10-0_14 P1 DETAILED EXTRACT SHEET 4
 2962-FBA-01-00-DR-A-00_10-0_15 P1 DETAILED EXTRACT SHEET 5
 2962-FBA-01-00-DR-A-00_10-0_16 DETAILED EXTRACT SHEET 6
 2962-FBA-01-00-DR-A-00_10-0_37 PHASE 1 BASEMENT ELEVATION P5
 2962-FBA-01-00-DR-A-00_10-0_38 PROPOSED EVERYMAN EXTERNAL ELEVATION P4

2962-FBA-01-00-DR-A-00_10-0_39 PHASE 1 BASEMENT ELEVATION SIGNAGE STRATEGY P4
FB/SK/2962/210916/JK05 PLANT ENCLOSURE SIGHT LINES
FB/SK/2962/190916/SK01 ROOF GUARDING STRATEGY
FB-SK-29 62-240816-JK02 UNIT 08 PLANT SOUTH-WEST SECTION
16013/M/SK4 P5 MECHANICAL SERVICES ROOF LEVEL PLANT AREA
MBG-COL-00-XX-DR-L-1004 Rev 02 LANDSCAPE MASTERPLAN
6285 600 LANDSCAPE & PUBLIC REALM FRAMWELGATE SECTIONS
6285 601 LANDSCAPE & PUBLIC REALM FRAMWELGATE RETAINING STRUCTURE ELEVATION
MBG-COL-00-XX-DR-L-3002 REV 01 RIVERSIDE TERRACES SECTION W-E
MBG-COL-00-XX-DR-L-3001 REV 01 RIVERSIDE TERRACES SECTION N-S
AIA TPP PHASE 1 DEMO-SOUTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)
AIA TPP PHASE 1 DEMO-NORTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)
AIA TPP PHASE 1 CONS-SOUTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)
AIA TPP PHASE 1 CONS-NORTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)
2962-FBA-VH-03-DR-A-00_00-VH52 Rev P1 CAR PARK VENT HOUSING DRAWINGS
5162523-ATK-HKF-XX-DR-CH-0001 Rev T5 MASTERPLAN KERBS, FOOTWAYS AND PAVED AREAS
AIR QUALITY RESPONSE DOCUMENT BY WSP PARSONS BRINCHERHOFF REF: 700100294-803/L02JG AND ACCOMPANYING FIGURES 11.2-11.4
BAT METHOD STATEMENT REVISED MAY 2016
EXTENDED PHASE 1 REPORT APRIL 2015
FRAMEWORK TRAVEL PLAN 70028015-02 JANUARY 2018
UNIT 08 PLAN CLARIFICATIONS NOTE 19 SEPTEMBER 2016
SMOKI SPECIFICATION SHEET
NALAF ACOUSTIC SINGLE FANS TECHNICAL INFORMATION SHEET
ALLAWAY ACOUSTICS LTD EQUIPMENT SCHEDULE
HUBBARD CELLAR CONDITIONING SYSTEM SPECIFICATION
FOSTER COLDSTORES SPECIFICATION SHEET
DALKIN EXTERNAL CONDENSING UNIT SPECIFICATION
AIRCLEAN FILTER MANUFACTURING SPECIFICATION
ENERGY STATEMENT 28 SEPTEMBER 2018
ARBORICULTURAL IMPACT ASSESSMENT REVISION A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)
ENVIRONMENTAL STATEMENT VOL 2 AMENDED APPENDIX 3.1 SCHEDULE OF DEVELOPMENT V9 (REVISED SEPTEMBER 2018)
ENVIRONMENTAL STATEMENT VOL 2 AMENDED APPENDIX 10.1 FLOOD RISK ASSESSMENT 002 AUGUST 2016
ENVIRONMENTAL STATEMENT VOL 1 FLOOD RISK AND HYDROLOGY MITIGATION MEASURES DETAILED AT 10.83 - 10.97
ENVIRONMENTAL STATEMENT VOL 1 AIR QUALITY MITIGATION MEASURES DETAILED AT 11.111 - 11.116
ENVIRONMENTAL STATEMENT VOL 1 LIGHTING MITIGATION MEASURES DETAILED AT 12.75 - 12.81
ENVIRONMENTAL STATEMENT VOL 2 APPENDIX 10.2 DRAINAGE STRATEGY FEBRUARY 2016
MILBURNGATE HOUSE CAR PARK HIGHWAYS TECHNICAL NOTE BY WSP REF 70028015
TRANSPORT NOTE - SECTION 73 APPLICATION BY WSP REF 70028015
MILBURNGATE HOUSE ADDENDUM FRA DATED 12 SEPTEMBER 2018
MILBURNGATE HOUSE ADDENDUM FRA BY WSP RECEIVED 12 SEPTEMBER 2018
ENVIRONMENTAL NOISE ASSESSMENT ADDENDUM BY WSP RECEIVED 22 MARCH 2018
DRAINAGE STRATEGY ADDENDUM 28 SEPTEMBER 2018
AIR QUALITY REPORT ADDENDUM BY WSP RECEIVED 22 MARCH 2018

(DRC/20/00144)
DESIGN DEVELOPMENT NOTE AC05 REV 1 RECEIVED 11/06/2020

(DRC/19/00231)
STAIR DETAILS BLOCK 1E SHEET 1 MBG COL 1E XX DR L 4115 REV P01
DETAILED LANDSCAPE LAYOUT BLOCK 1E MBG COL 1E XX DR L 2107 REV 04
BALUSTRADE DETAILS BLOCK 1E SHEET 2 MBG COL 1E XX DR L 4151 REV P01
BALUSTRADE DETAILS BLOCK 1E SHEET 1 MBG COL 1E 00 DR L 4150 REV P01
PETH STAIRCASE MBG COL 1E XX DR L 6019 REV 02
TREE PROTECTION PROPOSAL

(DRC/19/00091)
MILBURNGATE EMPLOYMENT AND SKILLS PLAN RECEIVED 12 MARCH 2019

(DRC/19/00214)
APPLICATION FOR SECTION 61 CONSENT (NOISE AND VIBRATION) DATED 14 JUNE 2019 RECEIVED 18 JUNE 2019
NOISE AND VIBRATION MANAGEMENT PLAN DATED 13 JUNE 2019 RECEIVED 18 JUNE 2019
APPENDIX AND DOCUMENT 1 CONSTRUCTION MANAGEMENT PLAN PRO FORMA PAGES 1-9 OF DOCUMENT RECEIVED 8 OCTOBER 2019
MILBURNGATE HDV ANALYSIS DATED MAY 2019 PAGES 20-40 OF DOCUMENT RECEIVED 8 OCTOBER 2019
CONSTRUCTION LOGISTICS AND TRAFFIC MANAGEMENT PLAN DATED MARCH 2019 PAGES 10-19 OF DOCUMENT RECEIVED 8 OCTOBER 2019
QUERY CLARIFICATIONS DOCUMENT IN RESPONSE TO MONITORING AND COMPLIANCE OFFICER DATED 27 JANUARY 2020 RECEIVED 20 FEBRUARY 2020
CASELLA GUARDIAN2 ENVIRONMENTAL MONITORING SPECIFICATION SHEET RECEIVED 20 FEBRUARY 2020
LEVEL 00 MASTERPLAN INDICATING MONITORING STATION LOCATIONS AND EMAIL CONFIRMING USE OF LOCATION 4 RECEIVED 28 MAY 2020
CONSTRUCTION PHASE HEALTH AND SAFETY PLAN AND APPENDICES RECEIVED 1 SEPTEMBER 2020

(DRC/19/00149)
DPP PLANNING COVER LETTER REF NW/LF/3119NE/L015 DATED 9 APRIL 2019 AND RECEIVED 16 MAY 2019

(DRC/19/00124)
MILBURNGATE HDV ANALYSIS RECEIVED 22 MAY 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6016 P03 RECEIVED 18 APRIL 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6015 P03 RECEIVED 18 APRIL 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6014 P01 RECEIVED 29 MARCH 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6013 P01 RECEIVED 29 MARCH 2019
SECTION 73 CONDITION 12 AIR QUALITY TECHNICAL NOTE RECEIVED 29 MARCH 2019
BLOCK 1D PRS PROPOSED APARTMENTS REQUIRING NOX FILTERS AND PURGE FANS MBGH-ATK-1D-XX-DR-M-571D23 P1 RECEIVED 17 MAY 2019
BLOCK 1D PRS PROPOSED NOX FILTERS AND PURGE FAN VENTILATION LAYOUTS MBGH-ATK-1D-XX-DR-M-571D24 P1 RECEIVED 17 MAY 2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to CDP Policies 6, 9, 15, 19, 21, 22, 25, 26, 29, 30, 31, 32, 35, 36, 39, 40, 41, 43, 44 and 45, DCNP Policies S1, S2, H1, H2, G1, E3, E4, E6, D4, D5, D6, T1, T2 and T3 and Parts 2, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

4. All tree protection, tree works and tree removals within Zone 1 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) shall be undertaken in accordance with AIA TPP Phase 1 Demo-South Rev A, AIA TPP Phase 1 Demo-North Rev A, AIA TPP Phase 1 Cons- South Rev A, AIA TPP Phase 1 Cons-North Rev A and Arboricultural Impact Assessment Revision A. All trees and hedges agreed for retention within that Zone shall be protected in accordance with the protection measures proposed within those approved documents and in accordance with BS 5837:2012. The protection measures shall remain in place until the cessation of the development works.

Tree works and tree removals are agreed only in regards to Zone 1 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1).

Reason: In the interests of tree protection and visual amenity having regards to CDP Policies 6, 29, 39, 40, 44 and 45, DCNP Policies S1, H1, H2 and G1 and Parts 12, 15 and 16 of the NPPF.

5. No development shall take place in Zone 1 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) unless in accordance with the Construction Management Plan (CMP) comprised of the following documentation;

Application for Section 61 Consent (Noise and Vibration) dated 14 June 2019 received 18 June 2019

Noise and Vibration Management Plan dated 13 June 2019 received 18 June 2019

Appendix and Document 1 Construction Management Plan Pro Forma pages 1-9 of document received 8 October 2019

Milburngate HDV Analysis dated May 2019 pages 20-40 of document received 8 October 2019

Construction Logistics and Traffic Management Plan dated March 2019 pages 10-19 of document received 8 October 2019

Query clarifications document in response to Monitoring and Compliance Officer dated 27 January 2020 received 20 February 2020

Casella Guardian2 Environmental Monitoring specification sheet received 20 February 2020
Level 00 Masterplan indicating monitoring station locations and email confirming use of location 4 received 28 May 2020

Construction Phase Health and Safety Plan and Appendices received 1 September 2020

Reason: In the interests of preserving residential amenity during the construction phases of the development having regards to CDP Policies 6, 25, 29 and 31 and CDNP Policy S1 and Part 15 of the NPPF.

6. No development shall take place in Zones 2 and 3 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) until a Construction Management Plan (CMP) for that Zone has been first submitted to and then approved by Local Planning Authority. The CMP shall consider the potential environmental impacts (noise, vibration, dust, & light) that the construction phase of the particular development Zone may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall include but not necessarily be restricted to:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission 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

- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 Code of practice for noise and vibration control on construction sites 2014.

- Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.

- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.

- 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 vehicular routes, accesses and any highway management measures proposed

Thereafter each Zone of the development shall be carried out in accordance with the approved CMP for that Zone.

Reason: In the interests of preserving residential amenity during the construction phases of the development having regards to CDP Policies 6, 25, 29 and 31 and CDNP Policy S1 and Part 15 of the NPPF. Required to be a pre-commencement condition as impacts of construction activity upon air quality must be assessed before construction works commence.

7. All works within Zone 1 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) shall be undertaken in accordance with the employment skills proposals contained within the "Milburngate Employment and Skills Plan received 12 March 2019".

Reason: In the interests of building a strong and competitive economy in accordance with Part 6 of the NPPF.

8. No works other than demolition, preliminary site excavation, enabling and remedial works within Zones 2 and 3 of the development (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) shall take place until an Employment & Skills Plan for that Zone has been submitted to and approved by the Local Planning Authority. Thereafter each Zone of development shall be carried out in accordance with the approved Employment & Skills Plan for that Zone.

Reason: In the interests of building a strong and competitive economy in accordance with Part 6 of the NPPF.

9. No development works other than demolition, preliminary site excavation, enabling and remedial works within Zones 1, 2 and 3 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) and the building of foundations and the erection of any supporting structural frame to any block within Zone 1 shall take place until full details of the following for the Zone 1 development have been submitted to and approved by the Local Planning Authority;

- i) Details of the cycle/motorcycle parking provision and facilities
- ii) Details of a signing strategy for cyclists in regards to the cycle parking provision
- iii) Details of the provision of electric vehicle charge points/electric vehicle parking provision

Thereafter the parking provision and signage strategy for Zone 1 must be carried out in accordance with the approved details and be implemented prior to the first occupation of the development.

Reason: In the interests of integrating sustainable transport measures into the development having regards to CDP Policies 21 and 22, DCNP Policies S1 and T1 and Part 9 of the NPPF.

10. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to any block within Zone 1 shall take place until a detailed landscaping scheme for Zone 1 of the development as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1 has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

- Any trees, hedges and shrubs scheduled for retention
- Details of soft landscaping including planting species, sizes, layout, densities, numbers
- Details of planting procedures or specification
- Finished topsoil levels and depths
- Details of temporary topsoil and subsoil storage provision

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc

Details of hard landscaping and public realm works

Details of means of enclosure including retaining walls

Details of the long term management proposals and details of the timescales of the implementation of the landscaping proposals shall also be submitted.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the landscaping scheme shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Thereafter Zone 1 of the development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity having regards to CDP Policies 6, 29, 39, 44 and 45, DCNP Policies S1, H1, H2 and G1 and Parts 12 and 15 of the NPPF.

11. The construction of Block 1D must incorporate the approved car park ventilation air quality pollutants measures contained in the following documents;

Section 73 Condition 12 Air Quality Technical Note received 29 March 2019

Block 1D PRS Proposed Apartments Requiring Nox Filters and Purge Fans MBGH-ATK-1D-XX-DR-M-571D23 P1 received 17 May 2019

Block 1D PRS Proposed Nox Filters and Purge Fan Ventilation Layouts MBGH-ATK-1D-XX-DR-M-571D24 P1 received 17 May 2019

Reason: In the interest of reducing impacts upon air quality having regards to CDP Policy 31, DCNP Policy S1 and Part 15 of the NPPF.

12. No development works other than demolition, preliminary site excavation, enabling and remedial works within Zones 1, 2 and 3 (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) and the building of foundations and the erection of any supporting structural frame to any block within Zone 1 shall take place until a detailed design including floorplans and elevations for the provision of a pedestrian connection/link between the application site and the adjacent Gates shopping centre based upon the details shown on drawing 2962-FBA-00-01-DR-A-00_10-00101 has been submitted to and approved by the Local Planning Authority.

Thereafter the development must not be occupied until the approved connection/link has been completed and is available for use.

Reason: So as to ensure appropriate connectivity and accessibility having regards to CDP Policies 21, 22 and 29, DCNP S1 and T1 and Parts 9 and 12 of the NPPF.

13. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to any block within Zone 1 shall take place until full details including samples and sample panels of all external materials to be used for that block within Zone 1 (as defined on drawings 2962-FBA-00-00-DR-A-05_10-115 Rev P1 and 29622962-FBA-00-00-DR-A-05_10-113 Rev P1) of the development have been submitted to and approved by the Local Planning Authority. Thereafter Zone 1 of the development must be carried out in accordance with the approved details.

Reason: In interests of visual amenity and preserving the character, appearance and setting of heritage assets having regards to CDP Policies 6, 29, 39, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12 and 16 of the NPPF.

14. Advertisements proposed within the development hereby approved shall be designed in accordance with the design parameters contained within the advertisement strategy document "Milburngate Signage Strategy Statement February 2019 Rev B".

Reason: So as to ensure that that the approach to advertisements and signage within the development is sympathetic to its location and so as to preserve the character, appearance and setting of heritage assets having regards to CDP Policies 29, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12 and 16 of the NPPF.

15. No development works within Zone 1 of the development (as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) in relation to the approved A1, A2, A3, A4, A5, B1, C3, D1 and D2 use classes (but excluding D2 gymnasium) shall take place unless in accordance with the approved scheme of vibration proofing measures "Design Development Note AC05 Rev 1 received 11/06/2020".

No D2 gymnasium use may be occupied until a scheme of vibration proofing measures has been first submitted to and then approved by the Local Planning Authority. The aim of the scheme shall be to ensure that any structural borne vibration between any D2 gymnasium use and separate/adjoining residential properties shall not exceed a vibration dose value of 0.2 (0700-23.00) and 0.1 (23.00-0700). Thereafter the approved scheme shall be carried out prior to the occupation of any D2 gymnasium use.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policy 31 and Part 15 of the NPPF.

16. No development works other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to any block shall take place within each Zone (Zones 1, 2 and 3 as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) until a scheme of sound insulation and tenant management measures for that Zone has been submitted to and approved in writing by the Local Planning Authority. The aim of the measures shall be to ensure that the tenants maximum operating noise limits, in conjunction with the sound insulation of walls, floors windows and ceilings between the commercial units and separate/adjoining residential properties shall be sufficient such that commercial noise does not exceed NR 20 (23.00-07.00) and NR 30 (07.00-23.00) (both measured as an Leq,5mins and assessed between 63Hz and 8kHz) within habitable areas of dwellings. The approved schemes shall be carried out prior to the occupation of the applicable Zones of the development and maintained thereafter.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policies 6, 29 and 31, DCNP Policy S1 and Part 15 of the NPPF.

17. No development works pursuant to the erection of the units for residential occupation within each Zone (Zones 1, 2 and 3 as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) shall take place until a detailed scheme of noise mitigation measures for the residential units within that Zone has been first submitted to and then approved by the Local Planning Authority. The noise mitigation shall demonstrate that the following noise levels are achieved.

35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)

30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)

45 dB LAm_{ax} in bedrooms during the night-time more than 10-15 times per night (as per World Health Organisation guidelines)

55dB LAeq 16hr in outdoor formal amenity areas

The development shall thereafter be carried out in accordance with the approved mitigation measures for each Zone and maintained thereafter.

Reason: So as to protect future occupiers from road traffic noise in the interests of residential amenity having regards to CDP Policies 6, 29 and 31, DCNP Policy S1 and Part 15 of the NPPF.

18. Notwithstanding details submitted on plans and documentation (except for the specific details pursuant to Unit no. 8 which are approved in detail) prior to the occupation of any A3/A4/A5 unit, or that particular unit, details of the fume extraction system to be utilised within any A3/A4/A5 unit or that particular unit, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the use commencing on any A3/A4/A5 unit or that particular unit and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Part 15 of the NPPF.

19. Prior to the occupation of each Zone of the development (Zones 1, 2 and 3 as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) a final external lighting scheme and associated lighting impact assessment for that Zone, shall be submitted and approved by the Local Planning Authority. This should include the following, commensurate with the scale/type of lighting scheme provided and having regards to the location of the site within Environmental Zone 3 in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light:

- A description of the proposed lighting units including height, type, angling and power output for all lighting
- Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;
- Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.

The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

Thereafter each Zone of the development shall be carried out in accordance with the approved schemes and assessments.

Reason: In the interests of preserving residential amenity and preserving the character, appearance and setting of heritage assets having regards to CDP Policies 6, 29, 31, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12, 15 and 16 of the NPPF.

20. The development hereby approved shall not be occupied until details of an operational strategy for the proposed Framwelgate Peth signalised access junction has been submitted to and approved in writing by the Local Planning Authority. Thereafter the signalised junction shall be operated in accordance with the approved details.

Reason: In the interests of highway safety having regards to CDP Policies 21 and 29, DCNP Policy T1 and Part 9 of the NPPF.

21. The opening/operating hours of the D2 cinema use hereby approved must accord with the details contained within the DPP Planning Cover Letter ref NW/LF/3119ne/L015 dated 9 April 2019 and received 16 May 2019 which confirms the opening/operating hours as:

Monday - 08:00am - 00:30am
Tuesday - 08:00am - 00:30am
Wednesday - 08:00am - 00:30am
Thursday - 08:00am - 00:30am
Friday - 08:00am - 01:30am
Saturday - 08:00am - 01:30am
Sunday - 08:00am - 00:30am

The opening hours will be extended by one additional hour (1 hour extension on closing time) on all Bank Holidays (New Year's Day; Good Friday; Easter Monday; Early May Bank Holiday; Spring Bank Holiday; Summer Bank Holiday; Christmas Day; Boxing Day) and the day prior to a Bank Holiday.

Prior to the occupation of any other unit to be utilised within the A3, A4, A5, D1 and D2 use classes hereby approved details of the proposed opening/operating hours of the units shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the units shall operate in accordance with the approved details.

Reason: To define the consent and in the interests of residential amenity having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Parts 8 and 15 of the NPPF.

22. Notwithstanding details contained within the plans and documents submitted, work shall not commence on the provision of the proposed signalised junction on Framwelgate Peth until a detailed design has been submitted to and approved by the Local Planning Authority. The design shall include details of any highway works at or within the vicinity of the entrance to/egress from Highgate. The submitted details shall include timescales as to when the highway works and signalised junction provision shall be implemented.

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

Reason: In the interests of highway safety having regards to CDP Policies 21 and 29, DCNP Policy T1 and Part 9 of the NPPF.

23. No operational phase machinery or plant shall be operated within each Zone of development (Zones 1, 2 and 3 as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1) until a detailed noise impact assessment and scheme of sound attenuation measures for that Zone has been submitted to and approved in writing by the Local Planning Authority. The scheme of attenuation measures shall ensure that the rating level of noise emitted from plant and machinery on the site shall not exceed the representative daytime background (LA90, 1hour) by more than 5dB between 07.00-23.00 and the representative night-time background (LA90, 15mins) by more than 0dB between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014. Each Zone of the development shall then be carried out and maintained in accordance with the approved measures for that Zone.

Reason: In the interests of residential amenity having regards to CDP Policy 31, DCNP Policy S1 and Part 15 of the NPPF.

24. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated August 2016 FRA_002 and Milburngate House Addendum FRA by WSP dated 12 September 2018 including the following mitigation measures detailed therein:

- i) Provision of compensatory flood storage as described in section 5.2.4, 5.2.5 and 6.3 of the FRA.
- ii) Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
- iii) Finished floor levels are set no lower than 33.5m above Ordnance Datum (AOD).
- iv) The "cinema" area itself can be at a level lower than 33.5m AOD but all potential routes into the cinema should be protected no lower than the 33.5m AOD.

Reason: In the interests of flood prevention and so as to ensure safe access to and egress from and to the site having regards to CDP Policy 35, DCNP Policy S1 and Part 14 of the NPPF.

25. Within Zones 2 and 3 of the development as defined on drawing 2962-FBA-00-00-DR-A-05_10-115 Rev P1 no more than 8 of the residential units shall contain 3 or more bedrooms.

Reason: So as to limit control the number of 3 bed properties within Zones 2 and 3 having regards to current school capacity levels and so as to ensure that the development meets the principles of sustainable development and having regards to Part 8 of the NPPF.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking or re-enacting that Order, no changes of use permitted under Classes G, I and T of Part 3 under Schedule 2 shall be undertaken without the grant of further specific planning permission from the Local Planning Authority.

Reason: So that the Local Planning Authority can exercise further control in regards to the impacts of these changes of use.

27. From the date of this permission until 13 May 2021 (inclusive) no development works pursuant to the development hereby approved shall take place outside the hours of 7am-8pm Monday-Friday & 8am-6pm on a Saturday with no works on any Sunday or Bank Holiday. During the hours of 7am-7.30am and 6pm-8pm Monday to Friday and 1pm-6pm on a Saturday the following works are prohibited;
- piling operations and pile cropping and mechanical break of piles; mechanical cutting or breaking of concrete; concrete pumping; scab-baling or cleaning of concrete; bulk earthworks; heavy duty pumps and heavy duty generators; all piling and earth moving plant and equipment including vibrating rollers and piling rigs; mechanical fixing of floor decks
 - the use of any tools listed within the table "Typical Examples of Noise Producing Tools and Equipment" at paragraph 3.4 Appendix 8 Environmental Management Plan contained within the approved Construction Phase Health and Safety Plan and Appendices

From the 14 May 2021 (inclusive) until the cessation of the development, no development works pursuant to the development hereby approved shall take place outside the hours of 7.30am - 6pm Monday to Friday (inclusive) and 8am - 1pm on a Saturday with no works on any Sunday or Bank Holiday.

Reason: To define the consent and in the interests of the amenity of neighbouring occupiers having regards to CDP Policies 6, 25, 29 and 31, DCNP Policy S1 and Part 15 of the NPPF.

28. Notwithstanding the approved plans referred to in Condition 4, no Dwellings shall be constructed on the North West red hashed area (marked 'land currently in DCC Ownership') of the site shown on drawing number FB-SK-2692-06.02.18-BH-001.

Reason: In order to define the consent.

DM/20/01333/VOC

1. The development hereby approved shall not be occupied until the structure of the podium, car parking provision, plant, core, circulation and servicing areas at levels B1, 00 and 01 (the development podium / platform) as defined on drawings 2962-FBA-00-B1-DR-A-00_10-0B102 P1, 2962-FBA-1A-00-DR-A-00_10-1A000 Rev P4, 2962-FBA-00-00-DR-A-00_10-00002 P1 and 2962-FBA-00-01-DR-A-00_10-00102 P1 are completed to a point that the Block 1a building can be adequately serviced in accordance with the Schedule of Works contained in the following documentation;

Tolent Cover Letter 31st March 2020 received 16.04.2020
2962-FBA-1A-00-DR-A-00_10-1A000 P4 Level 00 received 05.05.2020
2962-FBA-00-00-DR-K-10_20_0008 P2 Level 00 Plan received 05.05.2020
2962-FBA-00-01-DR-K-10_20_0108 P2 Level 01 Plan received 05.05.2020
2962-FBA-00-02-DR-K-10_20_0208 P2 Level 02 Plan received 05.05.2020

Reason: To ensure that necessary supporting infrastructure and development to serve the development hereby approved is undertaken prior to the commencement of the development hereby approved having regards to CDP Policies 6, 8, 21, 22, 29 and 35, DCNP Policies S1 and T1 and Parts 2, 6, 8, 9, 12 and 14 of the NPPF.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents and any recommendations, mitigation measures and adherence to parameters contained therein:

(18/00894/FPA and DM/16/01228/FPA)

962-FBA-00-00-DR-A-00_10-00002 P1 PROPOSED LEVEL 00 GA MASTERPLAN (33.5M A.O.D) (Hotel 1A)

2962-FBA-00-01-DR-A-00_10-00102 P1 PROPOSED LEVEL 01 GA MASTERPLAN (36.5m A.O.D) (Hotel 1A)

2962-FBA-00-B1-DR-A-00_10-0B102 P1 PROPOSED LEVEL B1 GA MASTERPLAN (31.0M A.O.D) (Hotel 1A)

2962-FBA-1A-00-DR-A-00_10-1A000 P4 PROPOSED PREMIER INN LEVEL 00

2962-FBA-01-02-DR-A-00_10-0200 REV P3 PROPOSED PREMIER INN LEVEL 02

2962-FBA-01-03-DR-A-00_10-0300 REV P2 PROPOSED PREMIER INN LEVEL 03

2962-FBA-01-04-DR-A-00_10-0400 REV P2 PROPOSED PREMIER INN LEVEL 04

2962-FBA-01-05-DR-A-00_10-0500 REV P2 PROPOSED PREMIER INN LEVEL 05

2962-FBA-01-06-DR-A-00_10-0600 REV P2 PROPOSED PREMIER INN LEVEL 06

2962-FBA-01-07-DR-A-00_10-0700 REV P2 PROPOSED PREMIER INN LEVEL 07

2962-FBA-01-08-DR-A-00_10-0800 REV P2 PROPOSED PREMIER INN LEVEL 08

2962-FBA-01-00-DR-A-01_10-1A-51 REV P2 PROPOSED PREMIER INN ELEVATIONS

2962-FBA-01-00-DR-A-01_10-0_28 REV P2 PROPOSED ELEVATION 01

2962-FBA-01-00-DR-A-01_10-0_29 REV P2 PROPOSED ELEVATION 02

2962-FBA-01-00-DR-A-01_10-0_30 REV P2 PROPOSED ELEVATION 03

2962-FBA-00-00-DR-A-05_10-0_104 REV P1.2 LOCATION PLAN

2962-FBA-00-03-DR-A-05_10-00305 REV P2 PROPOSED SITE PLAN

2962-FBA-01-00-DR-A-00_10-0_80 REV P1.3 PROPOSED SITE ELEVATIONS EAST AND WEST

2962-FBA-01-00-DR-A-00_10-0_81 REV P1.3 PROPOSED SITE ELEVATIONS NORTH AND SOUTH

2962-FBA-01-00-DR-A-00_10-0_82 REV P2 PROPOSED ELEVATION WITH PROPOSED GATES DEVELOPMENT

AIA TPP PHASE 1 CONS. - SOUTH REV A ARBORICULTURAL IMPACT ASSESSMENT TREE PROTECTION PLAN (TPP)

5162523-ATK-HKF-L0-DR-CH-0001 T4 KERBS, FOOTWAYS AND PAVED AREAS LEVEL 0 AREA 0A SHEET 1 OF 2

MBG-COL-00-XX-DR-L-7025 REV 03 SERVICE BAY LOCATION DCC OPTION

ES APPENDIX 10.1 FLOOD RISK ASSESSMENT AUGUST 2016

ES APPENDIX 10.1 FLOOD RISK ASSESSMENT MODELLING APPENDIX B

ES VOL 1 FLOOD RISK AND HYDROLOGY MITIGATION MEASURES DETAILED AT 10.83 - 10.97

ES VOL 1 AIR QUALITY MITIGATION MEASURES DETAILED AT 11.111 - 11.121

ES VOL 1 LIGHTING MITIGATION MEASURES DETAILED AT 12.75 - 12.81

WSP MILBURNGATE HOTEL APPLICATION FLOOD RISK ASSESSMENT SEPTEMBER 2018

ATKINS TECHNICAL NOTE LIGHTING ASSESSMENT - BLOCK 1A PLANNING APPLICATION ADDENDUM 5166326

ATKINS ENERGY STATEMENT FOR PREMIER INN HOTEL MILBURNGATE 07 SEPTEMBER 2018

WSP AIR QUALITY TECHNICAL NOTE

ATKINS TECHNICAL BLOCK 1A AIR QUALITY ADDENDUM NOTE PROJECT NO 5162523

WSP ENVIRONMENTAL NOISE ASSESSMENT JANUARY 2018

ATKINS DRAINAGE STRATEGY ADDENDUM (1A) 29 AUGUST 2018

ES APPENDIX 10.2 DRAINAGE STRATEGY

WSP TRAVEL PLAN 70028012-02 JANUARY 2018

ARBORICULTURAL IMPACT ASSESSMENT REVISION A 26TH AUGUST 2016

BAT METHOD STATEMENT MAY 2016

BIODIVERSITY STATEMENT

EXTENDED PHASE 1 REPORT APRIL 2015

(DRC/20/00173)

ACOUSTIC REPORT FOR CONDITION 12 OF DM/18/00894/FPA REV 2 RECEIVED 22 MAY 2020

(DRC/20/00146)

TOLANT COVER LETTER 31ST MARCH 2020 RECEIVED 16.04.2020
2962-FBA-1A-00-DR-A-00_10-1A000 P4 LEVEL 00 RECEIVED 05.05.2020
2962-FBA-00-00-DR-K-10_20_0008 P2 LEVEL 00 PLAN RECEIVED 05.05.2020
2962-FBA-00-01-DR-K-10_20_0108 P2 LEVEL 01 PLAN RECEIVED 05.05.2020
2962-FBA-00-02-DR-K-10_20_0208 P2 LEVEL 02 PLAN RECEIVED 05.05.2020

(DM/19/02191/NMA)

PROPOSED PREMIER INN LEVEL 02 2962- FBA-01-02-DR-A-00_10-0200 P4
PROPOSED PREMIER INN ELEVATIONS 2962- FBA-01-00-DR-A-01_10-1A-51 P3

(DRC/19/00213)

APPLICATION FOR SECTION 61 CONSENT (NOISE AND VIBRATION) DATED 14 JUNE 2019 RECEIVED 18 JUNE 2019
NOISE AND VIBRATION MANAGEMENT PLAN DATED 13 JUNE 2019 RECEIVED 18 JUNE 2019
APPENDIX AND DOCUMENT 1 CONSTRUCTION MANAGEMENT PLAN PRO FORMA PAGES 1-9 OF DOCUMENT RECEIVED 8 OCTOBER 2019
MILBURNGATE HDV ANALYSIS DATED MAY 2019 PAGES 20-40 OF DOCUMENT RECEIVED 8 OCTOBER 2019
CONSTRUCTION LOGISTICS AND TRAFFIC MANAGEMENT PLAN DATED MARCH 2019 PAGES 10-19 OF DOCUMENT RECEIVED 8 OCTOBER 2019
QUERY CLARIFICATIONS DOCUMENT IN RESPONSE TO MONITORING AND COMPLIANCE OFFICER DATED 27 JANUARY 2020 RECEIVED 20 FEBRUARY 2020
CASELLA GUARDIAN2 ENVIRONMENTAL MONITORING SPECIFICATION SHEET RECEIVED 20 FEBRUARY 2020
LEVEL 00 MASTERPLAN INDICATING MONITORING STATION LOCATIONS AND EMAIL CONFIRMING USE OF LOCATION 4 RECEIVED 28 MAY 2020
CONSTRUCTION PHASE HEALTH AND SAFETY PLAN AND APPENDICES RECEIVED 1 SEPTEMBER 2020

(DRC/19/00125)

MILBURNGATE HDV ANALYSIS RECEIVED 22 MAY 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6016 P01 RECEIVED 29 MARCH 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6015 P01 RECEIVED 29 MARCH 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6014 P03 RECEIVED 18 APRIL 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6013 P01 RECEIVED 29 MARCH 2019

(DRC/19/00114)

DETAILED SERVICE LAYBY LAYOUT MBG-COL-00-XX-DR-L-2011 REV P04
PROPOSED ROAD TRAFFIC SIGNS LEVEL 0 AREA 0A SHEET 1 OF 2 5162523-ATK-HSN-L0-DR-CH-0001 REV P1
MASTERPLAN S278 AND S38 BOUNDARY LINES 5162523-ATK-LLO-XX-DR-CH-0001 REV P4
PROPOSED ROAD TRAFFIC SIGNS MASTER PLAN 5162523-ATK-HSN-XX-DR-CH-0001 REV P1
PROPOSED ROAD TRAFFIC SIGNS LEVEL 0 AREA 0A SHEET 1 OF 2 5162523-ATK-HSN-L0-DR-CH-0001 REV P1
PROPOSED ROAD MARKINGS LEVEL 0 AREA 0A SHEET 1 OF 2 5162523-ATK-HMK-L0-DR-CH-0001 REV P1

MASTERPLAN KERBS, FOOTWAYS AND PAVED AREAS 5162523-ATK-HKF-XX-DR-CH-0001 REV P2
KERBS, FOOTWAYS AND PAVED AREAS LEVEL 0 AREA 0A SHEET 1 OF 2 5162523-ATK-HKF-L0-DR-CH-0001 REV T7
MASTERPLAN DRAINAGE 5162523-ATK-HDG-XX-DR-CH-0001 REV P2
DRAINAGE LEVEL 0 AREA 0A SHEET 1 OF 2 5162523-ATK-HDG-L0-DR-CH-0001 REV P2
MASTERPLAN EARTHWORKS/EXCAVATIONS 5162523-ATK-HAW-XX-DR-CH-0001 REV P2
EARTHWORKS/EXCAVATIONS LEVEL 0 AREA 0A SHEET 1 OF 2 5162523-ATK-HAW-L0-DR-CH-0001 REV P2

(DRC/19/00092)

MILBURNGATE EMPLOYMENT AND SKILLS PLAN RECEIVED 12 MARCH 2019
DPP PLANNING COVER LETTER NW/3119NE/L008 DATED 7 MARCH 2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to CDP Policies 6, 8, 21, 22, 25, 26, 29, 31, 35, 36, 39, 40, 41, 43, 44 and 45, DCNP Policies S1, H1, H2, G1, E3, E4, E6, and T1 and Parts 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

3. No development shall take unless in accordance with the Construction Management Plan (CMP) comprised of the following documentation;

Application for Section 61 Consent (Noise and Vibration) dated 14 June 2019 received 18 June 2019

Noise and Vibration Management Plan dated 13 June 2019 received 18 June 2019

Appendix and Document 1 Construction Management Plan Pro Forma pages 1-9 of document received 8 October 2019

Milburngate HDV Analysis dated May 2019 pages 20-40 of document received 8 October 2019

Construction Logistics and Traffic Management Plan dated March 2019 pages 10-19 of document received 8 October 2019

Query clarifications document in response to Monitoring and Compliance Officer dated 27 January 2020 received 20 February 2020

Casella Guardian2 Environmental Monitoring specification sheet received 20 February 2020
Level 00 Masterplan indicating monitoring station locations and email confirming use of location 4 received 28 May 2020

Construction Phase Health and Safety Plan and Appendices received 1 September 2020

Reason: In the interests of preserving residential amenity during the construction phases of the development having regards to CDP Policies 6, 25, 29 and 31 and CDNP Policy S1 and Part 15 of the NPPF.

4. All works shall be undertaken in accordance with the employment skills proposals contained within the "Milburngate Employment and Skills Plan received 12 March 2019".

Reason: In the interests of building a strong and competitive economy in accordance with Part 6 of the NPPF.

5. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

- o Details of soft landscaping including plant species, sizes, layout, densities, numbers;
- o Details of planting procedures or specification;
- o Finished topsoil levels and depths;
- o Details of temporary topsoil and subsoil storage provision;

- o The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- o Details of hard landscaping and public realm works; and
- o Details of means of enclosure, including retaining walls;
- o Details of the long term management proposals including measures to ensure the replacement of trees or plants which die, fail to flourish or are removed and details of timescales of the implementation of the landscaping proposals shall also be submitted.

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

Reason: In the interests of visual amenity having regards to CDP Policies 6, 29, 39, 44 and 45, DCNP Policies S1, H1, H2 and G1 and Parts 12 and 15 of the NPPF.

6. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until full details including samples and sample panels of all external materials to be used in the development have been submitted to and approved by the Local Planning Authority. Thereafter the development must be carried out in accordance with the approved details.

Reason: In interests of visual amenity and preserving the character, appearance and setting of heritage assets having regards to CDP Policies 6, 29, 39, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12 and 16 of the NPPF.

7. Advertisements proposed within the development hereby approved shall be designed in accordance with the design parameters contained within the advertisement strategy document "Plot 1A Signage Strategy Statement March 2019 received 28 June 2019".

Reason: So as to ensure that that the approach to advertisements and signage within the development is sympathetic to its location and so as to preserve the character, appearance and setting of heritage assets having regards to CDP Policies 29, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12 and 16 of the NPPF.

8. No development works other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to the building shall take place until a detailed design including floorplans and elevations for the provision of a pedestrian connection/link between the application site and the adjacent Gates/Riverwalk shopping centre based upon the details shown on drawing 2962-FBA-00-01-DR-A-00_10-00101 has been submitted to and approved by the Local Planning Authority. The details must include a timetable for the implementation of the connection/link and the connection/link must be completed and available for use in accordance with the approved details.

Reason: So as to ensure appropriate connectivity and accessibility having regards to CDP Policies 21, 22 and 29, DCNP S1 and T1 and Parts 9 and 12 of the NPPF.

9. The approved scheme of sound insulation and tenant management measures "Acoustic Report for Condition 12 of DM/18/00894/FPA Rev 2 received 22 May 2020" shall be carried out/completed prior to the occupation of the development and maintained thereafter.

Reason: In the interests of preserving the residential and occupier amenity of site occupiers having regards to CDP Policies 6, 29 and 31, DCNP Policy S1 and Part 15 of the NPPF.

10. Prior to the occupation of any A3/A4/A5 unit, or that particular unit, details all plant, extraction and ventilation to be utilised within any A3/A4/A5 unit or that particular unit, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the use commencing on any A3/A4/A5 unit or

that particular unit and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Part 15 of the NPPF.

11. No development works other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to the C1 use hotel hereby approved shall take place until full details of all plant, extraction, ventilation including fume extraction systems to be utilised within development are submitted to and approved in writing by the Local Planning Authority. Such details should include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems. The approved details shall thereafter be carried out and maintained in accordance with the approved details.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Part 15 of the NPPF.

12. Prior to the occupation of the development, a final external lighting scheme and associated lighting impact assessment shall be submitted and approved by the Local Planning Authority. This should include the following, commensurate with the scale/type of lighting scheme provided and having regards to the location of the site within Environmental Zone 3 in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light:

- o A description of the proposed lighting units including height, type, angling and power output for all lighting
- o Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;
- o Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.

The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

Thereafter the development shall be carried out in accordance with the approved schemes and assessments.

Reason: In the interests of preserving residential amenity and preserving the character, appearance and setting of heritage assets having regards to CDP Policies 6, 29, 31, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12, 15 and 16 of the NPPF.

13. The opening/operating hours of Unit 05 hereby approved must accord with the details contained within the DPP Planning Cover Letter NW/3119ne/L008 dated 7 March which confirms the opening/operating hours as:

Monday - Thursday inclusive 06:00am - 00:30am
Friday - Saturday inclusive 06:00am - 01:30am
Sunday 06:00am - 00.00 midnight

Prior to the occupation of any other unit to be utilised within the A3, A4, or A5 use classes hereby approved details of the proposed opening/operating hours of the units shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the units shall operate in accordance with the approved details.

Reason: To define the consent and in the interests of residential amenity having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Parts 8 and 15 of the NPPF.

14. No operational phase plant shall be operated until a detailed noise impact assessment and scheme of sound attenuation measures has been submitted to and approved in writing by the Local Planning Authority. The scheme of attenuation measures shall ensure that the rating level of noise emitted from plant on the site shall not exceed the representative daytime background (LA90, 1hour) by more than 5dB between 07.00-23.00 and the representative night-time background (LA90, 15mins) by more than 0dB between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014. The development shall then be carried and maintained in accordance with the approved measures.

Reason: In the interests of residential amenity having regards to CDP Policy 31, DCNP Policy S1 and Part 15 of the NPPF.

15. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated August 2016 FRA_002, the WSP Milburngate Hotel Application Flood Risk Assessment September 2018 and the following mitigation measures detailed within the FRA:
- o Provision of compensatory flood storage as described in section 5.2.4, 5.2.5 and 6.3 of the FRA
 - o Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
 - o Finished floor levels are set no lower than 33.5m above Ordnance Datum (AOD).

Reason: In the interests of flood prevention and so as to ensure safe access to and egress from and to the site having regards to CDP Policy 35, DCNP Policy S1 and Part 14 of the NPPF.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking or re-enacting that Order, no changes of use permitted under Classes G and T of Part 3 under Schedule 2 shall be undertaken without the grant of further specific planning permission from the Local Planning Authority.

Reason: So that the Local Planning Authority can exercise further control in regards to the impacts of these changes of use.

17. From the date of this permission until 13 May 2021 (inclusive) no development works pursuant to the development hereby approved shall take place outside the hours of 7am-8pm Monday-Friday & 8am-6pm on a Saturday with no works on any Sunday or Bank Holiday. During the hours of 7am-7.30am and 6pm-8pm Monday to Friday and 1pm-6pm on a Saturday the following works are prohibited;
- piling operations and pile cropping and mechanical break of piles; mechanical cutting or breaking of concrete; concrete pumping; scab-baling or cleaning of concrete; bulk earthworks; heavy duty pumps and heavy duty generators; all piling and earth moving plant and equipment including vibrating rollers and piling rigs; mechanical fixing of floor decks
 - the use of any tools listed within the table "Typical Examples of Noise Producing Tools and Equipment" at paragraph 3.4 Appendix 8 Environmental Management Plan contained within the approved Construction Phase Health and Safety Plan and Appendices

From the 14 May 2021 (inclusive) until the cessation of the development, no development works pursuant to the development hereby approved shall take place outside the hours of 7.30am - 6pm Monday to Friday (inclusive) and 8am - 1pm on a Saturday with no works on any Sunday or Bank Holiday.

Reason: To define the consent and in the interests of the amenity of neighbouring occupiers having regards to CDP Policies 6, 25, 29 and 31, DCNP Policy S1 and Part 15 of the NPPF.

18. The development must be implemented in accordance with the air quality mitigation measures detailed within ES Vol 1 Air Quality mitigation Measures at paragraphs 11.111 - 11.121 including the provision of a suitable form of ventilation requirements for Block 1a.

Reason: The air quality mitigation measures previously required for the residential Block 1a under application DM/16/01228/FPA are required for the hotel and A1-A5 uses hereby approved in the interests of amenity and pollution mitigation having regards to CDP Policy 31, DCNP Policy S1 and Part 15 of the NPPF.

19. The proposed loading bay to serve the development shall be fully constructed in accordance with the following approved details;
Detailed Service Layby Layout MBG-COL-00-XX-DR-L-2011 Rev P04
Proposed Road Traffic Signs Level 0 Area 0A Sheet 1 of 2 5162523-ATK-HSN-L0-DR-CH-0001 Rev P1
Masterplan S278 and S38 Boundary Lines 5162523-ATK-LLO-XX-DR-CH-0001 Rev P4
Proposed Road Traffic Signs Master Plan 5162523-ATK-HSN-XX-DR-CH-0001 Rev P1
Proposed Road Traffic Signs Level 0 Area 0A Sheet 1 of 2 5162523-ATK-HSN-L0-DR-CH-0001 Rev P1
Proposed Road Markings Level 0 Area 0A Sheet 1 of 2 5162523-ATK-HMK-L0-DR-CH-0001 Rev P1
Masterplan Kerbs, Footways and Paved Areas 5162523-ATK-HKF-XX-DR-CH-0001 Rev P2
Kerbs, Footways and Paved Areas Level 0 Area 0A Sheet 1 of 2 5162523-ATK-HKF-L0-DR-CH-0001 Rev T7
Masterplan Drainage 5162523-ATK-HDG-XX-DR-CH-0001 Rev P2
Drainage Level 0 Area 0A Sheet 1 of 2 5162523-ATK-HDG-L0-DR-CH-0001 Rev P2
Masterplan Earthworks/Excavations 5162523-ATK-HAW-XX-DR-CH-0001 Rev P2
Earthworks/Excavations Level 0 Area 0A Sheet 1 of 2 5162523-ATK-HAW-L0-DR-CH-0001 Rev P2

The loading bay shall be available for use/operation prior to the occupation/operation of the hotel and Use Class A1-A5 units hereby approved and in full accordance with the approved details.

Reason: To define the consent and the precise details of the proposed loading bay delivery in the interests of both visual amenity and highway safety having regards to CDP Policies 6, 21,22, 29 and 45, CDNP Policies S1 and H2 and Parts 9 and 16 of the NPPF.

DM/20/01332/VOC

1. The development hereby permitted shall be begun before 20/12/2021.

Reason: To ensure planning permissions are not extended by Section 73 applications and that the time limit remains consistent to the original consent DM/18/02924/FPA and 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 not be occupied until the structure of the podium, car parking provision, plant, core, circulation and servicing areas at levels B1, 00 and 01 (the development podium / platform) as defined on drawings 2962-FBA-00-B1-DR-A-00_10-0B103 P1, 2962-FBA-1A-00-DR-A-00_10-1A000 Rev P4, 2962-FBA-00-00-DR-A-00_10-00003 P1 and 2962-FBA-00-01-DR-A-00_10-00103 P1 are completed to a point that the Block 1e building can be adequately serviced in accordance with the Schedule of Works contained in the following documentation;

Tolent Cover Letter 31st March 2020 received 16.04.2020
2962-FBA-1A-00-DR-A-00_10-1A000 P4 Level 00 received 05.05.2020
2962-FBA-00-00-DR-K-10_20_0008 P2 Level 00 Plan received 05.05.2020
2962-FBA-00-01-DR-K-10_20_0108 P2 Level 01 Plan received 05.05.2020
2962-FBA-00-02-DR-K-10_20_0208 P2 Level 02 Plan received 05.05.2020

Reason: To ensure that necessary supporting infrastructure and development to serve the development hereby approved is undertaken prior to the commencement of the development hereby approved having regards to CDP Policies 6, 8, 21, 22, 29 and 35, DCNP Policies S1 and T1 and Parts 2, 6, 8, 9, 12 and 14 of the NPPF.

3. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents and any recommendations, mitigation measures and adherence to parameters contained therein:

(DM/16/01228/FPA and DM/18/02924/FPA)

3503_FBA-00-00-DR-A-05_10_300 REV P4 MASTERPLAN - 1E SITE BOUNDARY PLAN
3503-FBA-00-00-DR-A-05_10_104 P4 1E OFFICE LOCATION PLAN
3503-FBA-00-10-DR-A-05_10-1000 P4 SITE PLAN
3503-FBA-00-03-DR-A-05_10-301 P3 SITE PLAN LEVEL 03
3503_FBA-00-03-DR-A-00_00_300 P3 LEVEL 03 GA FLOOR PLAN
3503-FBA-00-04-DR-A-00_00_400 P3 LEVEL 04 GA FLOOR PLAN
3503_FBA-00-05-DR-A-00_00_500 P3 LEVEL 05 GA FLOOR PLAN
3503-FBA_00_06_DR_A_00_00_600 P3 LEVEL 06 GA FLOOR PLAN
3503-FBA-00-07-DR-A-00_00_700 P3 LEVEL 07 GA FLOOR PLAN
3503_FBA-00-08-DR-A-00_00_800 P4 LEVEL 08 GA FLOOR PLAN
3503-FBA-00-10-DR-A-00_00_900 P4 ROOF LEVEL GA FLOOR PLAN
3503-FBA-00-XX-DR-A-00_00_70 P3 GA SECTION 01
3503-FBA-00-XX-DR-A-00_00_71 P3 GA SECTION 02
3503-FBA-00-XX-DR-1-00_00_72 P3 GA SECTION 03
3503-FBA-00-XX-DR-A-00_00_73 P3 GA SECTION 04
3503-FBA-00-XX-DR-AA-00_00_63 P3 SITE ELEVATIONS NE AND E1
3503-FBA-00-XX-DR-A-00_00_62 P3 SITE ELEVATIONS NORTH AND SOUTH
3503-FBA-00-XX-DR_A-00_00_61 P3 SITE ELEVATIONS EAST AND WEST
3503-FBA-00-XX-DR-A-00_00_55 P4 PROPOSED WEST ELEVATION
3503-FBA-00-XX-DR-A-00_00_53 P4 PROPOSED SOUTH ELEVATION
3503_FBA-00-XX-DR-A-00_00_52 P4 PROPOSED EAST ELEVATION
3503-FBA-00-XX-DR-A-00_00_50 P4 PROPOSED NORTH ELEVATION
3503-FBA-00-XX-DR-A-00_00_51 P4 PROPOSED NORTH ELEVATION (TRUE)
3503-FBA-00-XX-DR-A-00_00_01 P3 SITE SECTION A AND B
MBG-COL-1E-XX-DR-L-1006 P2 LANDSCAPE MASTERPLAN BLOCK 1E
2962-FBA-00-00-DR-A-00_10-00003 P1 PROPOSED LEVEL 00 GA MASTERPLAN (33.5M A.O.D)
2962-FBA-00-01-DR-A-00_10-00103 P1 PROPOSED LEVEL 01 GA MASTERPLAN (36.5M A.O.D)
2962-FBA-00-B1-DR-A-00_10-0B103 P1 PROPOSED LEVEL B1 GA MASTERPLAN (31.0M A.O.D)
RETAINED TREES SHOWN ON PROPOSED LAYOUT WITH PROTECTIVE MEASURES INDICATED AIA TPP REV E
ES APPENDIX 10.1 FLOOD RISK ASSESSMENT AUGUST 2016
ES APPENDIX 10.1 FLOOD RISK ASSESSMENT MODELLING APPENDIX B
ES VOL 1 FLOOD RISK AND HYDROLOGY MITIGATION MEASURES DETAILED AT 10.83 - 10.97
ES VOL 1 LIGHTING MITIGATION MEASURES DETAILED AT 12.75 - 12.81
WSP MILBURNGATE - BLOCK 1E FULL PLANNING APPLICATION FLOOD RISK ASSESSMENT
ADDENDUM TO ENERGY STATEMENT FOR BLOCK 1E OFFICE 07 SEPTEMBER 2018 REV 4.0
MILBURNGATE HOUSE BLOCK 1E AIR QUALITY ASSESSMENT 11 SEPTEMBER 2018
MILBURNGATE BLOCK 1E NOISE IMPACT ASSESSMENT 5 SEPTEMBER 2018
ATKINS DRAINAGE STRATEGY ADDENDUM (1A) 29 AUGUST 2018
ES APPENDIX 10.2 DRAINAGE STRATEGY
BAT METHOD STATEMENT MAY 2016
EXTENDED PHASE 1 REPORT APRIL 2015
ES VOL 2 AMENDED APPENDIX 3.1 SCHEDULE OF DEVELOPMENT V9 (REVISED JUNE 2018)
ARBORICULTURAL IMPACT ASSESSMENT REVISION E

(DRC/20/145)

TOLANT COVER LETTER 31ST MARCH 2020 RECEIVED 16.04.2020
2962-FBA-00-00-DR-K-10_20_0008 P2 LEVEL 00 PLAN RECEIVED 05.05.2020
2962-FBA-00-01-DR-K-10_20_0108 P2 LEVEL 01 PLAN RECEIVED 05.05.2020
2962-FBA-00-02-DR-K-10_20_0208 P2 LEVEL 02 PLAN RECEIVED 05.05.2020
2962-FBA-00-00-DR-A-00_10-00003 P1 00 GA MASTERPLAN RECEIVED 05.05.2020

DRC/19/00230

STAIR DETAILS BLOCK 1E SHEET 1 MBG COL 1E XX DR L 4115 REV P01
DETAILED LANDSCAPE LAYOUT BLOCK 1E MBG COL 1E XX DR L 2107 REV 04
BALUSTRADE DETAILS BLOCK 1E SHEET 2 MBG COL 1E XX DR L 4151 REV P01
BALUSTRADE DETAILS BLOCK 1E SHEET 1 MBG COL 1E 00 DR L 4150 REV P01
PETH STAIRCASE MBG COL 1E XX DR L 6019 REV 02
TREE PROTECTION PROPOSAL

(DRC/19/00215)

APPLICATION FOR SECTION 61 CONSENT (NOISE AND VIBRATION) DATED 14 JUNE 2019 RECEIVED 18 JUNE 2019
NOISE AND VIBRATION MANAGEMENT PLAN DATED 13 JUNE 2019 RECEIVED 18 JUNE 2019
APPENDIX AND DOCUMENT 1 CONSTRUCTION MANAGEMENT PLAN PRO FORMA PAGES 1-9 OF DOCUMENT RECEIVED 8 OCTOBER 2019
MILBURNGATE HDV ANALYSIS DATED MAY 2019 PAGES 20-40 OF DOCUMENT RECEIVED 8 OCTOBER 2019
CONSTRUCTION LOGISTICS AND TRAFFIC MANAGEMENT PLAN DATED MARCH 2019 PAGES 10-19 OF DOCUMENT RECEIVED 8 OCTOBER 2019
QUERY CLARIFICATIONS DOCUMENT IN RESPONSE TO MONITORING AND COMPLIANCE OFFICER DATED 27 JANUARY 2020 RECEIVED 20 FEBRUARY 2020
CASELLA GUARDIAN2 ENVIRONMENTAL MONITORING SPECIFICATION SHEET RECEIVED 20 FEBRUARY 2020
LEVEL 00 MASTERPLAN INDICATING MONITORING STATION LOCATIONS AND EMAIL CONFIRMING USE OF LOCATION 4 RECEIVED 28 MAY 2020
CONSTRUCTION PHASE HEALTH AND SAFETY PLAN AND APPENDICES RECEIVED 1 SEPTEMBER 2020

(DRC/19/00126)

MILBURNGATE HDV ANALYSIS RECEIVED 22 MAY 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6016 P01 RECEIVED 29 MARCH 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6015 P01 RECEIVED 29 MARCH 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6014 P01 RECEIVED 29 MARCH 2019
SCHEME OF PEDESTRIAN AND CYCLING PROVISION MBG-COL-00-XX-DR-L-6013 P01 RECEIVED 29 MARCH 2019

(DRC/19/00090)

MILBURNGATE EMPLOYMENT AND SKILLS PLAN RECEIVED 12 MARCH 2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to CDP Policies 6, 21, 22, 25, 26, 29, 30, 31, 32, 35, 36, 39, 40, 41, 43, 44 and 45, DCNP Policies S1, S2, H1, H2, G1, T1, T2 and T3 and Parts 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

4. No development shall take place nor any site cabins, materials or machinery be brought on site until all trees and hedges agreed for retention as detailed on Retained Trees Shown on Proposed Layout With Protective Measures Indicated AIA TPP Rev E and as referenced within the Arboricultural Impact Assessment Revision E are protected in accordance with the protection measures proposed within those approved documents and in accordance with BS

5837:2012. The protection measures shall remain in place until the cessation of the development works.

Reason: In the interests of tree protection and visual amenity having regards to CDP Policies 6, 29, 39, 40, 44 and 45, DCNP Policies S1, H1, H2 and G1 and Parts 12, 15 and 16 of the NPPF.

- 5 No development shall take unless in accordance with the Construction Management Plan (CMP) comprised of the following documentation;

Application for Section 61 Consent (Noise and Vibration) dated 14 June 2019 received 18 June 2019

Noise and Vibration Management Plan dated 13 June 2019 received 18 June 2019

Appendix and Document 1 Construction Management Plan Pro Forma pages 1-9 of document received 8 October 2019

Milburngate HDV Analysis dated May 2019 pages 20-40 of document received 8 October 2019

Construction Logistics and Traffic Management Plan dated March 2019 pages 10-19 of document received 8 October 2019

Query clarifications document in response to Monitoring and Compliance Officer dated 27 January 2020 received 20 February 2020

Casella Guardian2 Environmental Monitoring specification sheet received 20 February 2020
Level 00 Masterplan indicating monitoring station locations and email confirming use of location 4 received 28 May 2020

Construction Phase Health and Safety Plan and Appendices received 1 September 2020

Reason: In the interests of preserving residential amenity during the construction phases of the development having regards to CDP Policies 6, 25, 29 and 31 and CDNP Policy S1 and Part 15 of the NPPF.

6. All works shall be undertaken in accordance with the employment skills proposals contained within the "Milburngate Employment and Skills Plan received 12 March 2019".

Reason: In the interests of building a strong and competitive economy in accordance with Part 6 of the NPPF.

7. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

- o Details of soft landscaping including plant species, sizes, layout, densities, numbers;
- o Details of planting procedures or specification;
- o Finished topsoil levels and depths;
- o Details of temporary topsoil and subsoil storage provision;
- o The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- o Details of hard landscaping and public realm works; and
- o Details of means of enclosure, including retaining walls;
- o Details of the long term management proposals including measures to ensure the replacement of trees or plants which die, fail to flourish or are removed and details of timescales of the implementation of the landscaping proposals shall also be submitted.

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

Reason: In the interests of visual amenity having regards to CDP Policies 6, 29, 39, 44 and 45, DCNP Policies S1, H1, H2 and G1 and Parts 12 and 15 of the NPPF.

8. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until full details including samples and sample panels of all external materials to be used in the development have been submitted to and approved by the Local Planning Authority. Thereafter the development must be carried out in accordance with the approved details.

Reason: In interests of visual amenity and preserving the character, appearance and setting of heritage assets having regards to CDP Policies 6, 29, 39, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12 and 16 of the NPPF.

9. Notwithstanding details submitted within the submitted plans and documentation no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until an advertisement and signage strategy for the development has been submitted to and approved by the Local Planning Authority.

Reason: So as to ensure that that the approach to advertisements and signage within the development is sympathetic to its location and so as to preserve the character, appearance and setting of heritage assets having regards to CDP Policies 29, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12 and 16 of the NPPF.

10. No development works other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to the building shall take place until a scheme of sound insulation and tenant management measures has been submitted to and approved in writing by the Local Planning Authority. The aim of the measures shall be to ensure that the tenants maximum operating noise limits, in conjunction with the sound insulation of walls, floors windows and ceilings between adjoining noise sources/external noise sources and separate/adjoining B1 use properties shall be sufficient that noise does not exceed NR 40, or otherwise adhere to the noise levels stated in the British Council for Offices guide 2009. The approved schemes shall be carried out prior to the occupation of the development and maintained thereafter.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policy 31 and Part 15 of the NPPF.

11. Prior to the occupation of any A3 unit, or that particular unit, details all plant, extraction and ventilation to be utilised within any A3 unit or that particular unit, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the use commencing on any A3 unit or that particular unit and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interests of preserving the residential amenity of site occupiers having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Part 15 of the NPPF.

12. Prior to the occupation of the development, a final external lighting scheme and associated lighting impact assessment shall be submitted and approved by the Local Planning Authority. This should include the following, commensurate with the scale/type of lighting scheme provided and having regards to the location of the site within Environmental Zone 3 in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light:

- o A description of the proposed lighting units including height, type, angling and power output for all lighting
- o Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;

- o Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.

The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

Thereafter the development shall be carried out in accordance with the approved schemes and assessments.

Reason: In the interests of preserving residential amenity and preserving the character, appearance and setting of heritage assets having regards to CDP Policies 6, 29, 31, 44 and 45, DCNP Policies S1, H1 and H2 and Parts 12, 15 and 16 of the NPPF.

13. Prior to the occupation of any unit to be utilised within the A3 or D2 use classes hereby approved details of the proposed opening/operating hours of the units shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the units shall operate in accordance with the approved details.

Reason: To define the consent and in the interests of residential amenity having regards to CDP Policies 6, 29, 30 and 31, DCNP Policy S1 and Parts 8 and 15 of the NPPF.

14. No operational plant shall be operated until a detailed noise impact assessment and scheme of sound attenuation measures has been submitted to and approved in writing by the Local Planning Authority. The scheme of attenuation measures shall ensure that that the rating level of noise emitted from plant at each location shall not exceed the noise levels stated below:
NSR Time Period Fixed Plant Noise Limit dB LAeq, T
1 - PRS block 1D and 1C Daytime (07:00 23:00) 62 dB
1 - PRS block 1D and 1C Night-time (23:00 07:00) 50 dB
2 Framwelgate Peth Daytime (07:00 23:00) 62 dB
2 Framwelgate Peth Night-time (23:00 07:00) 50 dB
3 - Radisson Hotel Daytime (07:00 23:00) 61 dB
3 - Radisson Hotel Night-time (23:00 07:00) 43 dB

The plant must be installed and operated in accordance with the sound attenuation measures.

Reason: In the interests of residential amenity having regards to CDP Policy 31, DCNP Policy S1 and Part 15 of the NPPF.

15. Notwithstanding details contained within the plans and documents submitted, work shall not commence on the provision of the proposed signalised junction on Framwelgate Peth until a detailed design has been submitted to and approved by the Local Planning Authority. The design shall include details of any highway works at or within the vicinity of the entrance to/egress from Highgate. The submitted details shall include timescales as to when the highway works and signalised junction provision shall be implemented.

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

Reason: In the interests of highway safety having regards to CDP Policies 21 and 29, DCNP Policy T1 and Part 9 of the NPPF.

16. The development hereby approved shall not be occupied until details of an operational strategy for the proposed Framwelgate Peth signalised access junction has been submitted to and approved in writing by the Local Planning Authority. Thereafter the signalised junction shall be operated in accordance with the approved details.

Reason: In the interests of highway safety having regards to CDP Policies 21 and 29, DCNP Policy T1 and Part 9 of the NPPF.

17. Within 6 months of occupation a Final Travel Plan, conforming to the National Specification for Workplace Travel Plans, PAS 500:2008, Bronze level, shall be submitted to and approved in writing by the Local Planning Authority. Once approved the Travel Plan must be complied with for the lifetime of the development.

Reason: In the interests of promoting sustainable travel options and reducing potential impacts upon air quality having regards CDP Policies 21 and 29, DCNP Policy T1 and Part 9 of the NPPF.

18. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated August 2016 FRA_002, the WSP Milburngate - Block 1E Full Planning Application Flood Risk Assessment and the following mitigation measures detailed within the FRA:

- o Provision of compensatory flood storage as described in section 5.2.4, 5.2.5 and 6.3 of the FRA
- o Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
- o Finished floor levels are set no lower than 33.5m above Ordnance Datum (AOD).

Reason: In the interests of flood prevention and so as to ensure safe access to and egress from and to the site having regards to CDP Policy 35, DCNP Policy S1 and Part 14 of the NPPF.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking or re-enacting that Order, no changes of use permitted under Classes G, I and T of Part 3 under Schedule 2 shall be undertaken without the grant of further specific planning permission from the Local Planning Authority.

Reason: So that the Local Planning Authority can exercise further control in regards to the impacts of these changes of use.

20. From the date of this permission until 13 May 2021 (inclusive) no development works pursuant to the development hereby approved shall take place outside the hours of 7am-8pm Monday-Friday & 8am-6pm on a Saturday with no works on any Sunday or Bank Holiday. During the hours of 7am-7.30am and 6pm-8pm Monday to Friday and 1pm-6pm on a Saturday the following works are prohibited;

- piling operations and pile cropping and mechanical break of piles; mechanical cutting or breaking of concrete; concrete pumping; scab-baling or cleaning of concrete; bulk earthworks; heavy duty pumps and heavy duty generators; all piling and earth moving plant and equipment including vibrating rollers and piling rigs; mechanical fixing of floor decks
- the use of any tools listed within the table "Typical Examples of Noise Producing Tools and Equipment" at paragraph 3.4 Appendix 8 Environmental Management Plan contained within the approved Construction Phase Health and Safety Plan and Appendices

From the 14 May 2021 (inclusive) until the cessation of the development, no development works pursuant to the development hereby approved shall take place outside the hours of 7.30am - 6pm Monday to Friday (inclusive) and 8am - 1pm on a Saturday with no works on any Sunday or Bank Holiday.

Reason: To define the consent and in the interests of the amenity of neighbouring occupiers having regards to CDP Policies 6, 25, 29 and 31, DCNP Policy S1 and Part 15 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

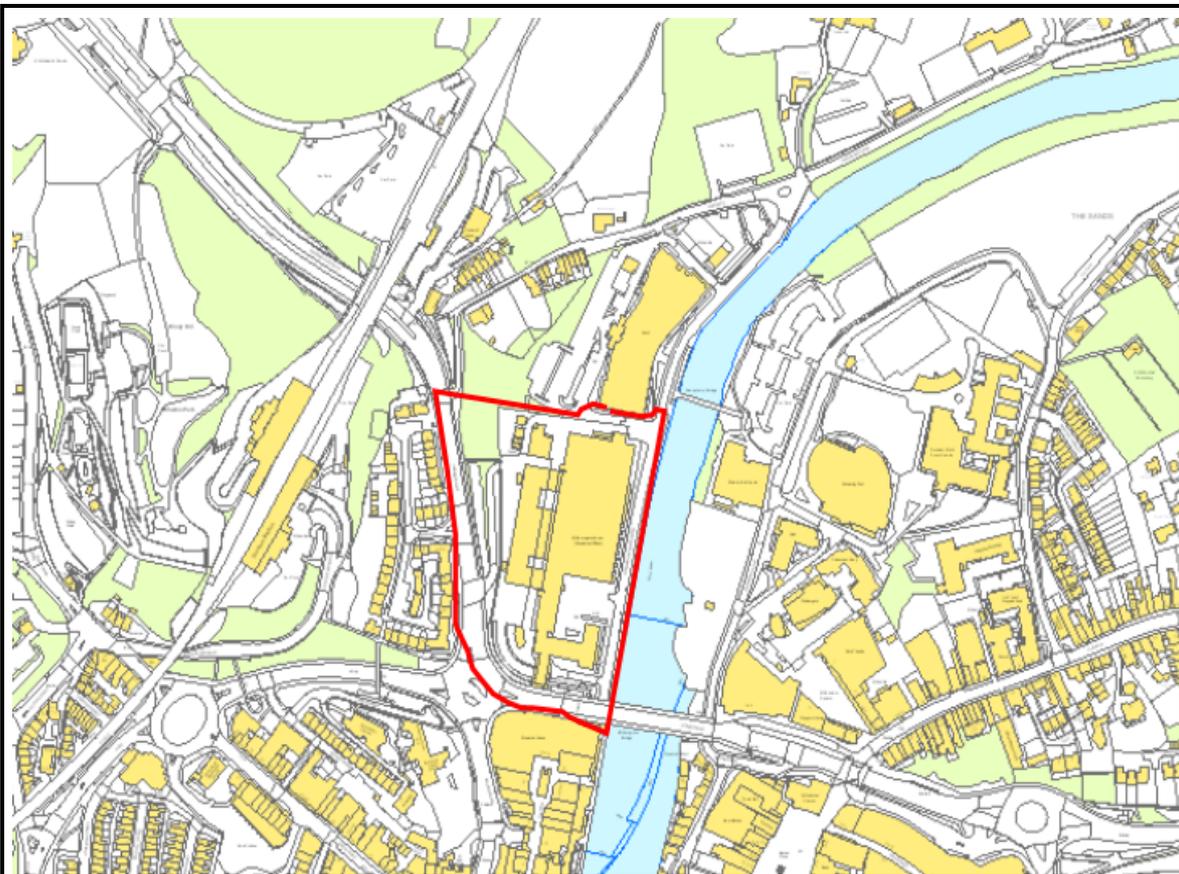
National Planning Practice Guidance Notes

County Durham Plan

Durham City Neighbourhood Plan

Written Ministerial Statement 13 May 2020 and associated guidance

Statutory, internal and public consultation responses



Planning Services

DM/20/01334/VOC

Variation of condition 29 of DM/18/00896/VOC to permit works between 7am-8pm Monday-Friday & 8am-6pm on Saturdays until 13/05/2021 (Amended Description)

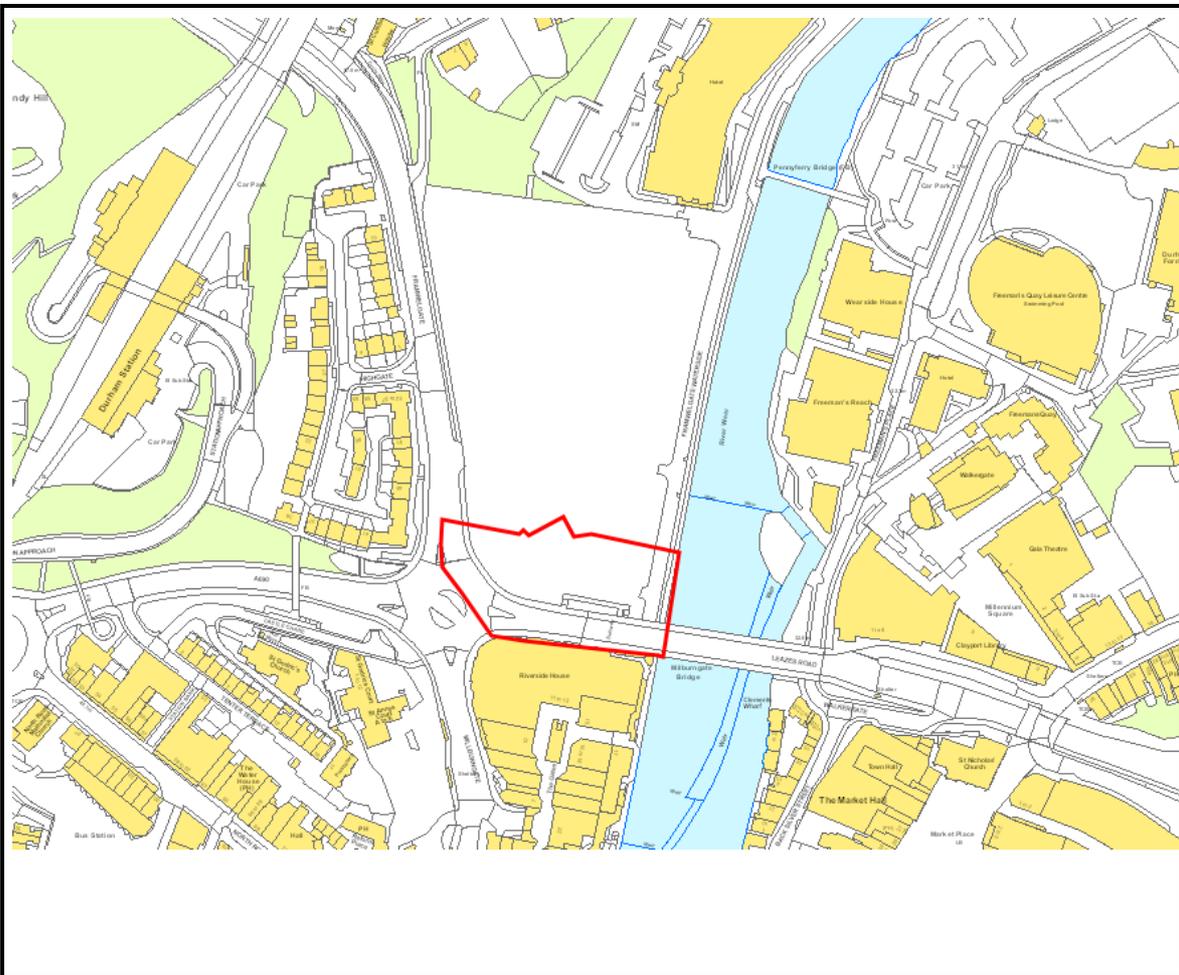
Former Millburngate House Framwelgate Waterside Durham DH1 5TL

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Date 3rd November 2020

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DM/20/01333/VOC

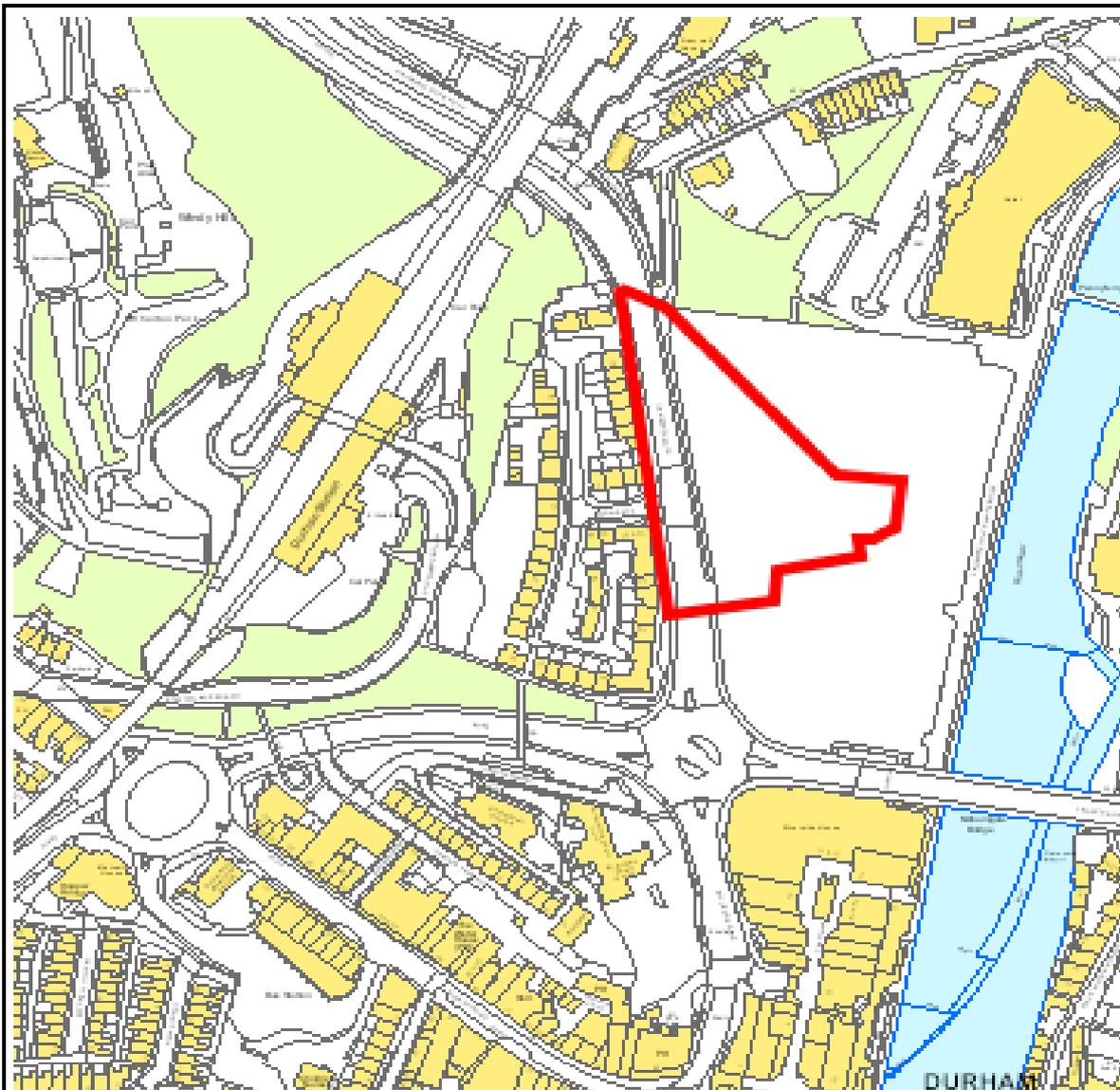
Variation of condition 20 of DM/18/00894/FPA to permit works between 7am-8pm Monday-Friday & 8am-6pm on Saturdays until 13/05/2021 (Amended Description)

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Planning Services

Ref: DM/20/01332/VOC

Variation of condition 23 of DM/18/02924/FPA to permit works between 7am-8pm Monday-Friday & 8am-6pm on Saturdays until 13/05/2021 (Amended Description)

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