



## Area Planning Committee (North)

**Date**      **Thursday 27 July 2023**  
**Time**      **9.30 am**  
**Venue**     **Council Chamber, County Hall, Durham**

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 29 June 2023 (Pages 3 - 16)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
  - a) DM/22/03331/OUT - Unit 1A Watling Street Industrial Estate, Leadgate, DH8 6TA (Pages 17 - 38)

Outline Application seeking planning permission for a change of use of the land to E(g) (light industrial use), the erection of new building to support this change of use and associated works. All matters reserved except for access, scale and layout.
  - b) DM/23/00446/FPA - The Chelmsford, Front Street, Ebchester, Consett, DH8 0PJ (Pages 39 - 56)

Change of use from commercial (Public House) to a five-bedroom residential dwelling (C3).
  - c) DM/22/02627/FPA - Site of Former Bus Depot, Chester Road, East Stanley, DH9 0TH (Pages 57 - 86)

Full planning application for the construction of new retail food store and associated parking.

6. 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  
19 July 2023

To: **The Members of the Area Planning Committee (North)**

Councillor E Peeke (Chair)  
Councillor W Stelling (Vice-Chair)

Councillors G Binney, J Blakey, L Brown, K Earley, J Griffiths,  
D Haney, P Jopling, B Moist, J Purvis, I Roberts, K Shaw,  
A Sterling, A Watson and S Wilson

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## **DURHAM COUNTY COUNCIL**

### **AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 29 June 2023 at 9.30 am**

#### **Present:**

**Councillor E Peeke (Chair)**

#### **Members of the Committee:**

Councillors W Stelling (Vice-Chair), J Blakey, K Earley, L Fenwick, J Griffiths, D Haney, P Jopling, J Purvis, I Roberts, K Shaw, M Stead, A Sterling, A Watson and S Wilson

#### **Also Present:**

Councillor S Robinson

#### **1 Apologies**

Apologies for absence were received from Councillors G Binney and L Brown.

#### **2 Substitute Members**

Councillor L Fenwick substituted for Councillor G Binney and Councillor M Stead substituted for Councillor L Brown.

#### **3 Minutes**

The minutes of the meeting held on 18 May 2023 were confirmed as a correct record and signed by the Chair.

#### **4 Declarations of Interest**

Councillor Sterling declared an interest in item 5b explaining that she had spoken on the item in her capacity as Local Member at the meeting held on 27 April 2023. Councillor Sterling confirmed that she was now a member of the Area Planning Committee (North) and intended to speak on behalf of residents. L Ackermann, Legal Officer advised that Councillor Sterling could speak as Local Member for the Delves Lane division but must leave the Chamber prior to the debate.

In respect of item 5c, Councillor Earley explained that he had requested the item be brought to Committee in conjunction with Councillor Robinson but confirmed that he was independent.

## **5 Applications to be determined by the Area Planning Committee (North Durham)**

### **a DM/22/01929/OUT - Land To The Rear Of 1 To 8 Wesley Terrace, Castleside Industrial Estate, Castleside, DH8 9QB**

The Committee considered a report of the Senior Planning Officer regarding outline consent for Use Class C3 residential development of up to 18 units with access (with all other matters reserved) (for copy see file of Minutes).

S Henderson, Senior Planning Officer provided a detailed presentation of the application which included a site location, aerial photographs, photographs of the site and proposed plans.

J Blackmore addressed the Committee in objection to the application. He confirmed that he was a local resident and, in his opinion, an extensive consultation regarding the application had not taken place with residents. He advised Members that the front of his property was currently overlooked and the proposed houses, particularly plots 13,14 and 15 would directly overlook the rear of his property due to the raised level of these houses. He referred to the photographs displayed by the Senior Planning Officer and stated that whilst the road was wide, the photographs did not show the heavy goods vehicles (HGVs) which were often parked on the road. He went on to highlight that drainage in the area was a problem and Northumbrian Water had been dealing with issues of backfilling for five years and additional houses would put further strain on drainage exacerbating the problem.

In response to comments from J Blackmore, the Senior Planning Officer apologised that the consultation had not been considered sufficient and clarified that it had been publicised by way of press, site notices and that letters had been sent to all neighbouring properties. He also noted that Mr Blackmore had been invited to the meeting and given the opportunity to make representations. The Planning Officer went on to advise that the application was for outline consent and gave assurance that minimum separation distances could be achieved on site.

Councillor Sterling asked if local members had raised any objections. She had great sympathy with residents but gave assurance that concerns of being overlooked would be considered in more detail at the planning stage. She commented that she drove past the site daily and had no objection to

the application for outline consent and believed it would be a good addition to the village.

In respect of the Section 106 legal agreement to secure £28,620.00 towards open space and green infrastructure within the Electoral Division, Councillor Haney noted it was standard practice to allocate this money to the Electoral Division but asked if it was possible to allocate this to the parish instead. The Senior Planning Officer commented that open space contributions were being sought for the additional housing being created and whilst he was unsure of the precise policy, he stated that the money needed to benefit the future residents of the site. The Legal Officer advised that if there was not a suitable place within the parish to spend the contribution towards open space, then funds could be cascaded to the wider Electoral Division. Councillor Haney supported this.

Councillor Earley confirmed that concerns of overlooking were raised during the site visit, but he felt the fall of the land provided an opportunity to minimise the impact to residents and asked if it was possible for the build level to be reduced. L Dalby, Principal Planning Officer advised that the issue of overlooking was a reserved matter and if Members approved the application, this issue would be considered at the next stage of the planning process along with design and layout. The Senior Planning Officer went on to explain that the Residential Amenity Standards Supplementary Planning Document (SPD) provided guidance on separation and privacy explaining that for every metre difference in land level, a further meter of separation was required.

Further to the concerns expressed by J Blackmore regarding drainage, Councillor Blakey asked whether pressure could be put on Northumbrian Water. The Senior Planning Officer advised that Northumbrian Water would need to be involved at the next stage of the planning process and that minimum standards would need to be met before development could commence. Councillor Blakey confirmed that she was minded to approve the application for outline consent. This was seconded by Councillor Jopling.

In response to a question from Councillor Watson regarding the public consultation, the Senior Planning Officer advised that they had exceeded the statutory guidelines for consultations noting the team had issued press notices, site notices, in addition to 39 letters to residents.

Councillor Shaw disagreed that a good mix of housing was proposed, he considered the houses to be exclusive and pointed out that no bungalows were included in the proposal. In his opinion, the current need for housing was not being met in County Durham and he asked whether it was within Members gift to influence the types of properties at this stage or at the next stage of the planning process. In response to Councillor Shaw, the Principal

Planning Officer advised whilst local need was important, the application put forward was solely to determine if the land was appropriate for residential use and confirmed the detail, including the types of houses, would be considered at the next stage of the planning process.

The Principal Planning Officer further advised that Condition 17 stated at least 10% of the total number of units approved will be constructed to a design and type which meet the needs of older people. Councillor Shaw felt 10% would not meet the demand going forward. The Principal Planning Officer explained that 10% was set out in Council Policy as a requirement.

The Chair confirmed that Councillor Blakey had **moved** the application for approval and this had been **seconded** by Councillor Jopling.

Upon a vote being taken it was:

### **Resolved**

That the application be **APPROVED** subject to a 106 legal agreement with the adjustment of £28,620.00 towards open space and green infrastructure be allocated to the Parish Council, cascading to the Electoral Division if necessary, and subject to the conditions listed in the report.

### **b DM/22/03273/FPA - Explorer House, Butsfield Lane, Knitsley, Consett, DH8 7PE**

The Committee considered a report of the Senior Planning Officer regarding the erection and use of a temporary warehouse building (70m x 30m) until December 2024 and three permanent welfare units (for copy see file of Minutes).

S Henderson, Senior Planning Officer provided a detailed presentation of the application which included a site location, aerial photographs, photographs of the site, proposed elevations and proposed welfare canteens.

Councillor Sterling thanked the Chair and members for allowing the item to be brought back to the Committee. She expressed her disappointment when the applicant did not attend the previous meeting of the Committee and hoped that the applicant would listen to the concerns raised. As Local Member for the Delves Lane division, Councillor Sterling valued Erwin Hymer as a major employer and understood their business need given the challenges over previous years but emphasised the need to be a good neighbour. Councillor Sterling explained that residents were not unreasonable. Their main issue was that the structure had been built without permission and had created significant problems, particularly relating to noise

and light. Councillor Sterling believed that if the application had gone through the correct planning process from the outset, then officers would have considered the impact on residents in detail.

Councillor Sterling noted that mitigations had recently been proposed, however residents had continued to hear noise after 10.00pm and their concerns regarding lighting remained. Councillor Sterling questioned why mitigations had not been introduced earlier and queried whether the mitigation for lighting was sufficient given that residents properties were bungalows. Residents felt that their trust had been broken and were concerned that these issues would continue should the Committee approve the application. Councillor Sterling felt it was important for residents to have a named contact and telephone number at both Erwin Hymer and the Local Authority so that any future issues could be reported immediately. Whilst Councillor Sterling welcomed the mitigations that had been proposed, she emphasised how distressed residents had been and the need for them to be given re-assurance going forward.

Councillor Sterling left the Chamber.

Ms Jackson Brown, local resident, addressed the Committee in objection to the application. She stated that requesting an extension on a building where planning permission was not applied for in the first place was not right. The temporary warehouse was originally planned to be dismantled the previous year but had remained standing. Constant noise from delivery trucks was causing anxiety and had affected the wellbeing of residents. Ms Jackson Brown confirmed that she had moved into her bungalow in 2019 and work by the company at that time was between the hours of 8.00am and 5.00pm and did not occur right on her doorstep. However, over time excess traffic noise and light had become an issue, particularly noise which had been heard between the hours of 6.00am and 11.00pm. Ms Jackson Brown explained that she could withstand the temporary warehouse until 2024 but needed assurance that it would come to an end at this time, and should a new structure be required, it be situated elsewhere. She advised that young family members had been unable to sleep because of the noise and although Erwin Hymer had been behaving well recently, she expressed concern that their behaviour would revert should the application be approved. Ms Jackson Brown appreciated the needs of the business but stressed that she wanted a quiet life in peace, something that she had worked hard for.

Mr C Short, Erwin Hymer Group addressed the Committee. He stressed his passion for residents and the North East and explained that a previous leadership team had closed down facilities in Sweden to continue business in the North East to help the local economy. He apologised on behalf of the previous leadership team and agreed that planning permission should have been sought prior to the erection of the temporary warehouse. Mr Short

advised that he sought advice as soon as he was aware of this and gave his apologies on behalf of the previous leadership team for the issues that had arisen since 2019.

Mr Short advised that he had worked for the business for one year and wanted it to be an employer of choice and therefore Erwin Hymer had put in significant investment of over £15m to address the concerns that had been raised. He advised that as the Managing Director he was happy to be the named contact for residents and suggested that the Senior Planning Officer be the named contact at the Local Authority. Mr Short stressed the importance of bringing the business back to where it used to be and for this to happen there needed to be volume and that this involved materials and storage. He explained that the warehouse was needed until December 2024 at the latest and without the warehouse, the volume could not be met. Mr Short advised that Erwin Hymer Group had started production in Poland and it was important for the business to work as a team to keep the volume going and protect 600 jobs.

The Senior Planning Officer asked Mr Short if the lighting cowls had been installed. Mr Short confirmed that small cowls around the floodlights had been erected. The Senior Planning Officer suggested it would be helpful to have a discussion to see if anything further could be done to help mitigate light spill.

The Senior Planning Officer went on to advise that the application for a temporary warehouse was until December 2024 and the Planning Team had the power to act if the warehouse was not removed by this time. The Senior Planning Officer confirmed that he would be the named contact at the Local Authority should residents have any further concerns.

Councillor Jopling appreciated the difficulties faced by business over the last few years and the need to help a large manufacturer but advised that Members must also care for the needs of residents. She urged residents to contact their local councillor should they have any future concerns and noted that Erwin Hymer Group needed to plan for the temporary warehouse coming down. Councillor Jopling **moved** the application to be approved in line with the officer's recommendation.

Councillor Earley believed there was an expectation for large businesses to be good neighbours. He felt Mr Short from Erwin Hymer Group had a good hand on the job and hoped the next application for a permanent structure would be a better solution. Councillor Earley **seconded** that the application be approved.

Councillor Blakey was concerned regarding the level of noise residents had experienced and asked if it was possible for this to be monitored so that it



was clear where the bulk of the noise was happening. The Senior Planning Officer advised that noise levels had significantly reduced recently and was due to the new method of moving materials, which was a condition in the report. He advised that noise monitors were unnecessary and future concerns of noise could be reported to Environmental Health.

Councillor Stead stated that although the planning application was in retrospect, he felt the business was there for the community and had addressed the concerns of residents.

Councillor Wilson felt that Erwin Hymer Group had worked well to mitigate the concerns that had been raised and noted some of these concerns related to Environmental Health. Councillor Wilson was satisfied with the application providing that the conditions in the report mitigated the issues in relation to operation times, light and noise.

The Senior Planning Officer clarified that conditions 1 and 5 within the report referred to the temporary warehouse only.

Upon a vote being taken it was:

### **Resolved**

That the application be **APPROVED** subject to the conditions listed in the report.

### **c DM/22/01445/FPA - Land Adjacent to 4-5 Shotley Grove Road, Shotley Bridge, Consett, DH8 8SF**

The Committee considered a report of the Planning Officer regarding the replacement of existing septic tank with a domestic sewage treatment plant (for copy see file of Minutes).

C Robinson, Planning Officer provided a detailed presentation of the application which included a site location, aerial photographs, photographs of the site and the proposed tank specification. The Planning Officer explained that the applicant had provided an up to date management plan and therefore condition 5 was no longer required.

Councillor Robinson, Local Member for the Benfieldside division addressed the Committee. He stressed that the report lacked information regarding the maintenance of the tank and pointed out that there had been 16 spillages over the last 6 years. He explained that when the sewage wagon arrives to empty the tank, residents are unable to access the road for a period of one hour. Councillor Robson noted that 4 and 5 Shotley Grove Road were now

commercial premises and were used continuously seven days a week and that by law that the tank should have been replaced in 2022 and therefore the proposal for replacement was 18 months out of date. Councillor Robinson stressed that the applicant did not own the land and highlighted that the covenant was for domestic use and not for commercial use.

Mr M Farrell addressed the Committee in objection to the application. He explained that he had made the applicant aware when the tank had overflowed and had stressed to the applicant that they were unable to build on his land without planning permission. Mr Farrell informed Members that he had significant evidence of the tank overflowing which had caused contamination to the River Derwent and emphasised the foul smell when this occurred. Mr Farrell believed, given the number of people at 4 and 5 Shotley Grove Road and Mill House, that the proposal was not fit for purpose and pointed out that the footprint of the proposal was ten times larger than the footprint of the 1968 tank. Mr Farrell explained that he had offered to sell the land at the bottom of his garden where the existing septic tank was currently situated and stated that he was unable to put up a fence in this area due to the ongoing maintenance that was required. Mr Farrell explained that an alternative option for the proposal would be for the applicant to utilise the land at 4 and 5 Shotley Grove Road where an unused garage was located.

S Deegan, Associate Director, Cambrian Group addressed the Committee on behalf of the applicant. The proposal for a domestic sewage treatment plant would be installed in the same location as the current tank and would service 4 and 5 Shotley Grove Road only, with a new separate tank to service Mill House. He confirmed that two tanks would address the issues with capacity. Mr Deegan advised that a legal easement had been in place since 1968 which permitted legal right of access onto the site where the tank was currently located for the purpose of maintenance. He confirmed that the deed served no other purpose. He stated that the existing system was failing and a new improved facility was required. Whilst he understood the concerns of those that had objected, he advised that the underground infrastructure was already in place and the proposal had been accepted by the environment agency and was the most appropriate method to address the current issues. He noted the domestic sewage treatment plant could serve up to 12 people and as the number of people who reside/work at 4 and 5 Shotley Grove Road was 11, the proposal was deemed sufficient. S Deegan confirmed that no objections had been received following submission of the management plan which included a six week cycle of cleaning and flushing, annual tank maintenance and the installation of an alarm to prevent overflowing. S Deegan confirmed that all measures would be secured by conditions and advised that the domestic sewage treatment plant had received sign off from all statutory consultees.

L Dalby, Principal Planning Officer responded to Councillor Robinson's comment regarding land ownership and confirmed that this was outside the scope of the Area Planning Committee and could not be considered. With regards to maintenance, the Principal Planning Officer confirmed that as he was in receipt of a satisfactory management plan from Cambrian Group, condition 5 was no longer necessary.

In response to a question from Councillor Jopling, the Principal Planning Officer explained that three properties were currently connected to the existing tank and none of the properties could be disconnected until Mill House had its own tank, and for this to happen a separate application would need to be submitted demonstrating that Mill House had adequate capacity to deal with their waste.

Councillor Jopling went on to ask how efficient the domestic sewage treatment plant was in treating waste. The Principal Planning Officer explained that the traditional septic tank stored waste but the new domestic sewage treatment plant processed waste and its discharge was 97% clean. He further explained that the maintenance of the new plant was required once per year.

Councillor Earley commented on the complexities of the application and praised Councillor Robinson in supporting residents. He emphasised the contamination that had occurred in the River Derwent and stated that it would be beneficial to have someone present at the meeting who had commitment to the local area. He believed that the business at 4 and 5 Shotley Grove Road needed to behave in a responsible manner and felt that they could afford a proper solution to the issues suffered by residents. Councillor Earley asked for further clarification on how the domestic sewage treatment plant worked particularly the separation of fresh and foul water and if it was possible for the tank to overflow in the event of a flash flood. He asked for further clarification regarding the maintenance of the tank, whether this would be every 6 weeks or once per year and asked who would be alerted by the alarm that was to be installed. He stressed that Members needed to do their best for the residents and for the River Derwent to prevent any further pollution.

Councillor Watson commented that sewage was an issue throughout the country. He questioned why the domestic sewage treatment plant had to be next to the riverbank noting that several portable units were located across the countryside and were not in close proximity to a river and asked if a portable tank that did not require discharge into the river was an option where the unused garage was. He stated that the contamination caused to the river poisoned fish and prevented children from using the river. Councillor Watson went on to state that the land in question was private and should not be used to serve a commercial enterprise. He also felt that a video

presentation would have been beneficial for this application to demonstrate to Members how the treatment plant worked. Councillor Watson confirmed that the application should be refused.

Councillor Wilson noted the covenant that was introduced in 1968 and highlighted that 4 and 5 Shotley Grove Road were now being used as commercial premises and given that appliances had developed over the years, the usage now would be considerably more than 1968. He asked what calculations had been used to deem the domestic sewage treatment plant fit for purpose.

In response to concerns expressed by Councillor Blakey in relation to sewage discharged into the river being an offence, the Principal Planning Officer clarified that it was not a like for like septic tank explaining that a package treatment plant carries sewage as opposed to storing it and discharges 97% pure water. Councillor Blakey seconded that the application be refused.

Councillor Roberts commented that during the site visit she observed the unused garage on the land of 4 and 5 Shotley Grove Road and believed this was a better location for the domestic sewage treatment plant.

As the current septic tank was continuing to overspill, Councillor Sterling was concerned of the consequences if the application was to be refused.

Responding to comments from Members, the Principal Planning Officer reiterated that the proposed replacement was not a like for like septic tank and confirmed that the existing tank would be replaced with a package treatment plant. He gave assurance that the new tank was designed to accommodate waste for up to 12 people and would therefore meet the capacity need. With regards to the River Derwent and discharge, the Principal Planning Officer confirmed that the environment agency had deemed the proposal to be acceptable and had confirmed that this system for dealing with waste was one they advocated. He clarified that 4 and 5 Shotley Grove Road were a residential dwelling, not commercial premises, explaining that a children's home did not require planning permission.

Councillor Robinson stated that looked after childrens homes were considered commercial premises. The Principal Planning Officer clarified that in terms of planning, 4 and 5 Shotley Grove Road were classed as residential dwellings and no change of use had been required.

In response to a question from Councillor Peeke regarding the number of people residing at 4 and 5 Shotley Grove Road. S Deegan confirmed that a total of 11 people resided across the two properties and this was a

combination of children and staff. He clarified that the properties catered for a maximum of three children.

Councillor Wilson noted that the existing tank should accommodate the waste for up to 12 people and argued that as the new domestic sewage treatment plant could also only accommodate the waste for up to 12 people, whether the size of the new tank was sufficient given the reports of over spillage from the existing tank.

L Ackermann, Legal Officer clarified that the existing septic tank was to be replaced with a package treatment plant and would serve one dwelling less.

Councillor Haney stated that the questions asked earlier by Councillor Earley in relation to the regularity of the maintenance of the new tank and whether it could overflow had not been answered by officers and felt that additional conditions may be necessary to ensure adequate maintenance. The Principal Planning Officer explained that the initial period for maintenance following installation of the new tank would occur on a 6 week cycle until the tank was established. With regards to whether the tank was capable of overflowing, he advised that he was unsure whether the tank was a sealed unit but that a condition had been agreed for an alarm to be installed to monitor the capacity and would alert the appropriate person should capacity levels be reached.

Councillor Stead commented that larger septic tanks did not cost a great deal and questioned whether a package treatment plant was the correct solution or whether a larger septic tank would be a better solution.

The Legal Officer clarified that Members must consider the application in front of them. The Principal Planning Officer further added that the environment agency was satisfied and had raised no objections to the scheme.

Councillor Earley asked again if rainwater could go into the new tank and whether the tank had the potential to overflow. He further stressed that the condition regarding Mill House having their own separate tank installed first before any works commence must be adhered to. He went on to ask what reasons officers could suggest for Members to refuse the application.

Councillor Shaw left the meeting at 11.40am.

Councillor Jopling felt that Members would be doing a disservice to residents if they did not agree a solution.

In response to Councillor Earley's question regarding rainwater, S Deegan confirmed that the plant would only pick up foul water from 4 and 5 Shotley

Grove Road and the current drainage systems would deal with rainwater separately. Councillor Earley disagreed with this comment stating that in most cases, fresh water joins foul water and has the potential to create problems with flooding. The Principal Planning Officer stated that there was no further information available regarding this issue.

Councillor Purvis felt more information was needed before an informed decision could be made and asked if it was possible to defer the application until this was received. The Principal Planning Officer confirmed that technical officers were present at the meeting and asked what additional expertise was required to alleviate Members concerns.

Councillor Stead was mindful to approve the application if there was proof of separation of fresh and foul water. The Legal Officer asked Councillor Stead if he would be satisfied with an additional condition that secured separation of rainwater. Councillor Stead agreed that he was happy to move the application on this basis.

Councillor Sterling believed that there was no legal material reason to refuse the application and agreed with Councillor Jopling that a solution was needed for residents. Councillor Sterling noted the comments by Mr Farrell regarding selling his land and made a personal plea to the applicant to re-consider this.

Councillor Stelling expressed concern regarding contamination of the River Derwent and gave an example of a group of young people who had been admitted to hospital after swimming in the river. He explained that the quality of the water had been affected by sewage.

In response to a question from Councillor Watson, the Senior Planning Officer confirmed that the applicant could submit a further application free of charge providing it was within the 12 month period.

Councillor Wilson asked if it was possible for someone to attend a meeting of the Area Planning Committee to fully explain the workings of the domestic sewage treatment plant stating this would give him confidence to make a decision on the application.

Councillor Wilson left the meeting at 11.55am.

In response to a question from Councillor Jopling regarding rainwater, S Deegan explained that the domestic sewage treatment plant was a sealed system and did not accept rainwater, he confirmed that it only accepted foul waste from the properties it served. He went on to explain that Cambrian Group were not proposing a septic tank that stored waste, it was a new system that treats water and would include the installation of an alarm which would sound if capacity levels were reached. S Deegan explained that

installation of the same tank would not be accepted by policy and confirmed that the domestic sewage treatment plan met policy 36 of the County Durham Plan.

Councillor Earley stressed that the report did not clearly state that rainwater would be separated and believed 11 people on site at 4 and 5 Shotley Grove Road had the potential to push the tank to its limits. He was also concerned that the number of children residing at the properties could increase from 3 to 5.

The Chair confirmed that a motion had been put forward by Councillor Watson to refuse the application, this had been seconded by Councillor Blakey.

A further motion had been put forward by Councillor Griffiths to defer the application, this was seconded by Councillor Roberts.

N Carter, Lawyer advised that the applicant had confirmed that rainwater could not go into the domestic sewage treatment plant and stated that this could be secured with an additional condition. With regards to whether the plant could overflow, the Lawyer advised that whilst this had not been confirmed, officers and agencies had not expressed any concern and reiterated the alarm system. He believed that adequate information had been presented for Members to determine the application.

Councillor Sterling moved the application to be approved in line with the officer's recommendation with an additional condition to secure rainwater is separated. This was seconded by Councillor Jopling.

Upon a vote being taken, the motion to approve the application was lost.

The Council's Lawyer explained that proper refusal reasons would need to be put forward before the motion to refuse could be voted upon. He asked Cllr Watson to explain these. In response, Cllr Watson referred to part 15 of the NPPF and expressed concern about the environment as well as stating that the applicant should accommodate the PTP within his own land.

The Council's Lawyer advised that if the proposed refusal reasons were the risk of a pollution incident into the River Derwent and a better alternative location on the applicant's own land, these would not be sustainable on appeal. He asked Cllr Watson if he wished to reconsider or continue with these reasons in light of this advice.

Whilst Cllr Watson was of the view that the applicant would not appeal and would instead re-submit under the free go provisions, further discussion

ensued regarding the best way to proceed and Members concluded that insufficient information was available to determine the application.

Councillor Watson and Councillor Blakey withdrew the motion for the application to be refused.

A motion to defer the application was previously put forward by Councillor Griffiths and had been seconded by Councillor Roberts.

Upon being asked by the Council's Lawyer, Councillor Earley explained the reasons for deferral on behalf of Members. He stressed that it had not been confirmed whether rainwater could be separated. He asked for further information regarding the washing arrangements for the three properties. Finally, he stressed that it needed to be clarified if the children that reside in 4 and 5 Shotley Grove Road could increase to 5 in the future as reflected in the Care Quality Commission report and if this were to occur, the impact this would have on the domestic sewage treatment plant.

Upon a vote being taken it was:

### **Resolved**

That the application be **DEFERRED**.





## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/22/03331/OUT
Full Application Description:	Outline Application seeking planning permission for a change of use of the land to E(g) (light industrial use), the erection of new building to support this change of use and associated works. All matters reserved except for access, scale and layout
Address:	Unit 1A Watling Street Industrial Estate, Leadgate, DH8 6TA
Name of Applicant:	Shane McDonald / Woodgen Ltd
Electoral Division:	Leadgate and Medomsley
Case Officer:	Jacob Reed Planning Officer 0300260826 <a href="mailto:jacob.reed@durham.gov.uk">jacob.reed@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site is located in the northwest fringe of the village of Leadgate adjacent to Watling Street Industrial Estate, in the northwest of the County. The application site measures approximately 0.85ha in area and encompasses an existing industrial premises operated by 'Woodgen'. The company operates gasification units and heat pumps fuelled by waste sawdust, to manufacture wood fuel briquettes. Additional land measuring approximately 0.58ha in area is also included within the application site, this includes 0.38ha of woodland and 0.20ha of grass land.
2. The site is located on the Highway Werdohl Way/Dere Street which links the wider industrial estate to residential dwellings on Watling Road. 'Woodgen' is the only industrial premises situated to the north of the highway, however to the south the wider industrial estate is located. Woodland and grass land surround the current industrial unit on three sides. The woodland forms part of the wider 'Watling Wood' a community woodland planted in the late 80's early 90's and

acts as a buffer to houses to the northeast and also serves as a recreational function with a number of informal access paths through the wood. The woodland is designated as Accessible Natural Green Space within the Council's Open Space Needs Assessment, with approximately 0.20ha of the application site falls within this designation. The land to facilitate the expansion of the site is currently in the Council's ownership and has been designed an Asset of Community Value under the Localism Act 2011.

3. Access to the site is taken from an access point in front of the existing building, leading to a storage yard to the east.

#### The Proposal

4. The application seeks outline planning permission for the erection of a new industrial unit to the west of the existing unit on site, with details of access, layout and scale submitted for consideration. The proposal would measure approximately 35m in length by 28.5m in width with a total floor area of 997.5sqm and would have a ridge height of 9.4m. It is indicated that the building would be clad in corrugated metal sheeting to match the existing unit on site. An extensive hardstanding storage space and access road is proposed, with a new access point taken to the western site boundary.
5. The building would be sited to the west of the existing unit on site and would result in the loss of 0.38ha of woodland and 0.20ha of grass land. The building would be used under a B2 use class to supplement the existing use of the site. The supporting information sets out that the development would allow the applicant to separate out two distinct functions of their operations on the site. This is the fuelling of gasification units/heat pumps and the drying out of waste sawdust from the manufacturing, wrapping, storage and subsequent distribution of briquette fuel.
6. The applicant states that there are currently 5 full-time employees on site and with the proposed expansion of the business this would generate an additional 10 employees over the next 5 years. The site currently operates within the hours of 08:00am and 17:00pm, it is proposed that the development would keep these operational hours.
7. The application is being reported to planning committee as the agent sets out that the proposal would generate excess of 10 fulltime equivalent jobs, and the application has a recommendation for refusal.

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## PLANNING HISTORY

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8. The applicant sought planning permission in 2018 under DM/18/00226/FPA for the erection of an extension to side of factory and retention of containers this was a retrospective application and was approved in June 2018. In 2019 the applicant submitted an additional application DM/19/00527/FPA for the erection of an extension to rear which was approved in April 2019
9. In 2021 the applicant submitted an application (DM/21/02377/FPA) similar in nature to this current application, this was subsequently withdrawn as the applicant wished to address policy conflict concerns raised by the authority and to conduct public consultation for the scheme with the local residents.

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## PLANNING POLICY

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### National Policy

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.

18. 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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

### **National Planning Practice Guidance:**

19. 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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; light pollution; natural environment; noise; public rights of way and local green space; planning obligations; use of planning conditions; and; water supply, wastewater and water quality.

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

### **Local Plan Policy:**

The County Durham Plan (CDP)

20. *Policy 1 (Quantity of Development)* outlines the levels of employment land and housing delivery considered to be required across the plan period.
21. *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 character of the 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; makes use of previously developed land and reflects priorities for urban regeneration.

22. *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.
23. *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.
24. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
25. *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.
26. *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.
27. *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.

28. *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 wastewater 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.
29. *Policy 39 (Landscape)* states that 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
30. *Policy 40 (Trees, Woodlands and Hedges)* states that 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.
31. *Policy 41 (Biodiversity and Geodiversity)* states that proposal 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.
32. *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.
33. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning

applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

34. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

<https://www.durham.gov.uk/cdp>

#### **Neighbourhood Plan:**

35. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **Statutory Consultee Responses:**

36. *Highways Authority* – Raise no objections, advising that the applicant's Transport Statement sets out that the amount of movements in and out of the access it is not anticipated to exceed 7 weekly HGV movements and 10 weekly flat-bed vehicle movements on the access. The upgrade access points should be constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980.

#### **Non-Statutory Responses:**

37. *Landscape Section* – Advise that the development proposal would result in a reduction in woodland and pasture, which would be changed to large modern industrial units, outdoor storage and access areas. The proposed industrial units would broadly relate to the character of the existing industrial areas to the south-west, south and south-east. However the removal of trees from the existing established woodland area would reduce the extent of natural green space and land with rural character. Major and adverse landscape effects would occur at site level and in areas immediately adjacent. Effects could be considered significant at site level due to the change from a maturing area of deciduous woodland to large industrial shed type buildings.
38. *Landscape Section (Trees)*: Advise that the land in question is currently a community woodland planted on reclaimed land which was initiated and supported by the community and which therefore provides direct benefit to them. The proposed mitigation includes enhanced management of the remaining woodland in the event this was approved however this does not provide compensation for the loss of the woodland, only improved management which may potentially be done in future by the community as the woodland continues to develop. The trees to be lost are considered to be of group amenity value and form part of the wider woodland.
39. *Ecology* – Raise no objection following submission of information relating to Biodiversity Net Gain requirements. It is however highlighted that further clarifications on the metric submitted is required but this could be controlled by condition and then considered reserved matters stage.

40. *Environmental Health* – Following the submission of additional information and clarification on the nature of the proposals, no objections are raised subject to conditions to control further investigations in relation to land contamination.
41. *Business Durham* Support the application due to the economic benefits it provides through job creation, economic growth and development of the green economy.

### **Public Responses:**

42. The application has been advertised by individual notification letters and site notice, 68 letters of objection have been received and 3 letters in support. Comments made have been summarised below:
43. Objections
- The woodland is an important link to local wildlife corridors and makes up the majority of the wildlife habitation within Leadgate.
  - The woodland will mature over time and the immature sections are as important as the more established parts of the wood.
  - Brownfield development should be prioritised over greenfield sites such as this and that there are plenty of alternative brownfield sites and vacant industrial units in Leadgate that the applicant could utilise.
  - Development in the location proposed is inappropriate the site is already at its capacity and extending the boundary of the site into the woodland is going to have a negative impact upon the area.
  - The woodland has great local and ecological value and as a result is designated as an asset of community value.
  - The increase in production and traffic on the site has the potential for increased noise pollution.
  - The proposal is of poor design and an eyesore
44. Support:
- Company and proposal help benefit the local economy through both job creation directly by the business and indirectly with business that are involved in the production line which has a positive impact upon Leadgate's economy.
  - Proposal will provide employment for local people as the applicant has priorities hiring locals since the formation of the company the expansion of the business will only increase that.
  - Council should encourage green enterprise expansion such as this business. Renewable energy should be at the forefront of decision making and the renewable by product of the manufacturing at this site has a positive impact upon the environment and the renewable goals of County Durham.

*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/>*

### **Applicants Statement:**



45. In addition to the documentation submitted in support of this outline application to Durham County Council for determination, I wish to clarify some key points relating to the Proposed Development from the Applicant's perspective for the benefit of Committee Members.
46. We are committed to the operation of this site in North-West Durham and want to continue to provide local employment opportunities on-site and within the supply chain, which we have been doing since we purchased Unit 1a Watling in 2017. The current factory is arguably the only genuinely carbon negative biomass production facility in the UK and the Proposed Development will ensure the continued success of this innovative business providing renewable energy sector jobs within County Durham.
47. The Addendum to the Planning Statement provides the detail of the economic case which supports this proposal, but for the avoidance of doubt I want to stress the following key points:
48. When we originally purchased this site, we could not predict the exponential growth in demand for the logs and wood burning stove fuel alternatives which we have experienced in the last 3-years. Demand is currently outstripping supply, and with our operational outputs currently restricted, this demand cannot be met. We and Business Durham have invested a substantial amount of capital into upgrading facilities on-site to make them as advanced as possible within the existing footprint.
49. We have reached a point where we either must expand to improve the efficiency and safety of operations across this site or relocate the whole operation to our main site in Northumberland. This is not something that we wish to do and does not make sense from a commercial or personal perspective; particularly when we know that we are creating valuable jobs and experience for people that are looking for such opportunities in the local area.
50. Over the last few years we have sought an open and honest dialogue with not only the local community, but also Durham County Council and other key stakeholders to work collaboratively on our proposals. Notably I feel that the extensive pre-application engagement carried out by the team between January and September 2022 was successful as we used various interactive means of getting feedback on our proposals as well as offering local people the opportunity to let us know what improvements in Watling Wood they would like to see secured because of this development (e.g. social media, drop-in session, briefings, guided site visits, and an interactive website with map and online feedback forms).
51. Despite being able to allay many local residents' fears about the proposals, which lead to an appreciation that the loss of woodland was not as substantial and better management of the woodland would benefit the local community and Watling Wood, we acknowledge that a considerable number of public objections have been raised. It seems, however, that these objections would be made irrespective of proposals (even if they came from community members) and the numerous social, environmental, and economic benefits they could

secure if it resulted in any tree loss. The fact that tree specialists are in agreement that the condition of the woodland would be enhanced by tree-thinning is also a fundamental point which does not seem to be recognised by some members of the local community.

52. Critically, support from other voices within the local community should also not be overlooked when considering this scheme. The Addendum to the Planning Statement specifically highlights how several local organisations and individuals (including Richard Holden MP) support the development.
53. In terms of local policy requirements of Policies 26 (Green Infrastructure), 40 (Trees, Woodland and Hedges) and 41 (Biodiversity and Geodiversity) we have engaged positively with the Council to ensure that any harm is mitigated and that overall the benefits outweigh the harm. We believe we are compliant with these policies by;
  - enhancing the quality and amenity value of Watling Wood;
  - replacing individual trees lost as a result of the development to ensure that there is no overall reduction in tree canopy cover.
  - compensating for the loss of approximately 0.38 ha of mixed plantation woodland by enhancing 1.57 ha of Watling Wood which will bring this habitat from 'poor' to 'moderate' condition;
  - compensating the loss of 0.20 ha of neutral grassland by restructuring the woodland to provide sheltered, open habitat of use to invertebrates and birds (i.e. creation of 140m woodland rise) which will secure +10.43% biodiversity net gain.
54. In terms of other wider benefits of the off-site mitigation proposals, it is important to note that a vital element is the community engagement activities to support the wider management of Watling Wood over the long-term. To facilitate this, the Applicant has been working with support from a local organisation to develop a programme of volunteering amongst the local community. The proposed physical works and community activities (including creation of a volunteer network) were designed to complement the Council's approach, with the intention that proposed development would act as a catalyst improved woodland management over the long-term. Despite our positive and pragmatic approach to discussions, unfortunately we have been unable to arrive at a solution to compensate for the area of woodland lost which meets all the tests established in Policy 40 and is therefore acceptable to the Council.
55. The Planning Statement Addendum provides the necessary background to this point. It is nevertheless important to note we have had numerous meetings with DCC officers on this issue, and ultimately, it appears that the requirements of Policy 40 cannot be satisfied in this case. Even though we have offered a 3:1 ratio replacement of any trees lost from Watling Wood, as there is no identifiable site to plant an equivalent or improved area of publicly-accessible woodland, the Council has not accepted this; and therefore considers the application non-compliant.

56. I acknowledge that the Proposed Development is not fully-compliant with the County Durham Plan, but I believe we have submitted a compelling case for approval of this application and that the planning balance weighs clearly in its favour. Therefore, I respectfully request that Members vote to approve outline planning permission to secure local jobs and the numerous social and environmental benefits associated with this scheme.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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57. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, loss of green infrastructure, ecology, design and residential amenity, highway safety and ground conditions.

### Principle of development

58. 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) is the statutory development plan 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 and is therefore considered up to date.
59. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
60. CDP Policy 2 allocates employment land for industrial and businesses purposes to meet the needs of employment land over the Plan period. The application site beyond the existing buildings on site is not allocated for employment uses in the CDP. However, CDP Policy 6 recognises that in addition to the development of specifically allocated sites, there will be situation where future opportunities arise for additional new development over and above that identified, this includes for employment and economic generating uses. Policy 6 sets out the that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;

- b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
  - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
  - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
  - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
  - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
  - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
  - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
  - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
  - j. where appropriate, it reflects priorities for urban regeneration.
61. The County Durham Plan defines 'the built-up area' as land contained within the main body of existing built development of a settlement or is within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside. Whilst the existing building is allocated for industrial purposes under CDP Policy 2 the proposed site is not, considered to be well related to the settlement lying directly adjacent the wider Watling Industrial Estate. However, when assessed against the 10 criteria of CDP Policy 6 concerns are raised regarding the impact of the development and compliance with this policy. The location of the proposed unit and accompanying access is to be situated on woodland which forms part of the character of the area and has a recreational function to the local community. For this reason, the woodland has been designated an Asset of Community Value under the Localism Act 2011. Any impacts are considered in detail below in relevant sections.
62. CDP Policy 6 does recognise the wider socio-economic benefits of development, this aligns with the NPPF The applicant sets out that there are interdependent needs of sustainable development, including, economic, social and environmental elements. In this respect the proposed development would allow the applicant to separate out two distinct functions of their operations on the site. This is the fuelling of gasification units/heat pumps and the drying out of waste sawdust, from the manufacturing, wrapping, storage and subsequent distribution of briquette fuel, it is stated that this would allow a more efficient operation. The applicant states that there are currently 5 full-time employees on site and with the proposed expansion of the business this would generate an additional 10 employees over the next 5 years through a 500% increase in output from the site. The applicant suggests that the current operations have

created 50 jobs in the supply chain, and this would expand to 200 in the next 5 years. The applicant advises that it would be his intention to relocate the business out of the county if the current site is unable to expand. The applicant highlights also that there are existing socio-economic issues in the immediate area and the provision of additional jobs would be a significant benefit.

63. The employment and growth figures provided by the applicant have not been independently verified, and it has not been demonstrated that another unit in close proximity of the site that could serve the storage and distribution needs of the business. However, the general economic and linked social benefits of a development of this nature are recognised. It is also noted that Business Durham supports the application in principle, highlighting job creation, economic growth and the contribution to the green economy that the development would contribute to.
64. While the principle of the development could be considered acceptable and the socio-economic benefits of the development recognised, consideration is required to be given to the specific impacts of the development as considered below

#### Loss of Green Infrastructure

65. CDP Policy 6 sets out that development proposals should not result in the loss of open land that has recreational, ecological value or contributes to the character of the area which cannot be mitigated or compensated for. The policy also sets out that development proposals should not result in the loss of settlements valued facilities.
66. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. The policy sets out that development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefit of the proposals clearly outweigh that loss or harm and an assessment has been undertaken to clearly show the open space or land is surplus to requirements. Where valued open spaces or assets are affected, proposals must incorporate suitable mitigation and make appropriate provision of equivalent or greater value in a suitable location, where appropriate there should be engagement with the local community.
67. Policy 40 (Trees, Woodlands and Hedges) states that 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. The policy sets out that proposals for new development resulting in the loss of woodland will not be permitted unless the benefits of the proposal clearly outweigh the impact and suitable replacement planting, either within the site or beyond the site boundary can be undertaken.
68. Part 8 of the NPPF sets out that existing open space and recreational land should not be built upon unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements, or the loss resulting from the proposed development would be replaced by equivalent provision in terms of quality and quantity.

69. As set out above the development proposals would result in a reduction in woodland and pasture amounting to approximately 0.38ha and 0.20ha respectively. The Councils Open Needs Assessment 2018 (OSNA) sets out that approximately 0.21ha of this area is designated as Accessible Natural Green Space, the site is also designated as an asset of community value under the Localism Act 2011. The woodland was planted as a community woodland planted on reclaimed land which was initiated and supported by the community in the late 80's early 90's. The level of objection raised in this, and previous applications is an indication of the value of the woodland both as a recreational benefit and social attachment to the local community. The OSNA does not set minimum targets for the provision of accessible green space or audit them, however as required by CDP Policy 26 and Part 8 of the NPPF an assessment is required to be undertaken to clearly show the open space is surplus to requirements when it is proposed to be lost. This has not been undertaken by the applicant in conflict with these policies.
70. The applicant has presented a mitigation scheme which they consider meets the above policy requirements of achieving a 'greater value'. It is proposed to enhance 1.57ha of the adjacent Watling Wood, with the intention of bringing the habitat from a poor to moderate condition. It is proposed that this would be achieved through the thinning of non-native trees and the creation of a more diverse shrub layer beneath the woodland canopy. It is also proposed to create a woodland rise of 140m in length through the woodland, it is calculated that these works would result in a 10.4% net biodiversity gain. A community engagement strategy to support the wider management of Watling Wood over the long term is also proposed. It is outlined that the proposed works would improve the accessibility and connectivity through the woodland to a greater number of people.
71. The Council currently maintains Watling Wood and it is advised by the Council's Landscape Section that the woodland is relatively young, and as part of the long-term management strategy wood thinning and maintenance works would routinely be undertaken in due course. While the proposed works would improve the biodiversity of the woodland, it is considered that they would have limited effect in boosting the recreational function of the woodland. Given the level of opposition to the scheme it is also unclear how effectively community engagement to support the wider management of the woodland would arise. It is also unclear as to what mechanism the applicant would secure the community engagement given that the woodland lies in Council ownership.
72. The applicant recognises that the strict requirements of Policies 26 and 40 of the CDP cannot be met by the proposed mitigation scheme. This is because these policies require equivalent or greater provisions, in that the quantum of woodland and open space lost needs to be re-provided in a suitable location. The proposed works to Watling Wood would not achieve this policy requirement. The applicant has offered a replanting ratio of 3:1 to be planted in the adjacent woodland or at an alternative location. However as already highlighted by the applicant Watling Wood is already overstocked and will require thinning as part of its future management, no other available sites within the locality have been identified as suitable locations for community woodland planting.

73. The applicant also makes a case that the Policy requirement to achieve a net biodiversity gain is at odds with the requirement of replacement on a like for like quantum basis. However as set out below CDP policies and the NPPF at this point in time only require developments to achieve a net biodiversity gain, not the 10.4% proposed in this development. Net biodiversity gain is also not required to be achieved specifically on or adjacent to an application site. Officers consider that there is no conflict with the aims of these policies.
74. In terms of community engagement, the applicant undertook consultation events prior to the re-submission of the application outlining their proposal in relation to the proposed mitigation strategy. Though the applicant's own submission the consultation event highlighted that the local community opposes the loss of the trees and has concerns on the remaining woodland. The submission does suggest a level of support for the mitigation strategy recognising the biodiversity net gain benefits. The applicant considers that the engagement events satisfy the policy requirements of CDP Policy 26. However, officers consider that true public engagement would have revolved around a strategy to understand aspirations and desires of the local community for the woodland rather than presenting a final scheme. It is also considered that the level of public opposition to the scheme reflects the lack of success of the community undertaken consultation. This was also reflected within the Council's consultation with a high level of objections with most objections wishing to emphasise the value the woodland has to them and the community and the harm the loss of some of this would cause.
75. Overall, an assessment to clearly show the open space is surplus to requirements has not been undertaken in conflict with CDP Policy 26 and Part 8 of the NPPF. Whilst a mitigation strategy has been presented to improve the quality and biodiversity of the woodland it is considered that this would not result in a greater recreational value over and above the open space lost in conflict with CDP Policy 26 and the works proposed would likely be undertaken though the standard management of the woodland as it matures. The development would not mitigate the quantum of woodland lost as required under CDP Policies 26 and 40. This policy conflict is required to be weighed in the planning balance, taking into account all material considerations.

## Ecology

76. CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
77. An Ecological Impact Assessment has been submitted in support of the application. The assessment concludes that the development would not adversely impact on any ecological interests in the site, specifically protected species and their habitats or priority habitats. The Council's Ecology officer considered the methodologies and conclusions of the report sound and subject to the mitigation measures including a restriction on the timing of works, devising a suitable lighting scheme and habitat creation offers no objection to the application.

78. In terms of net gain, an associated report and metric has been submitted to demonstrate that a 10.4% improvement over base line could be delivered. This includes the before mentioned additional planting and management strategy within Watling Wood. Subject to agreeing the finer details of this strategy the Councils Ecology Officer advised that the indicated level of net gain could be achieved.
79. It is acknowledged that objectors have raised concerns regarding the impact the development may cause upon the wildlife and ecological value of the woodland however following review with the Council's Ecologist and the policies analysed above it is considered that the proposal does provide ecological benefit.
80. Overall, the development would not impact on the ecological interests of the site accordance with CDP Policies 41 and 43 and Part 15 of the NPPF. A 10.4% up lift in biodiversity net gain, in excess of policy requirement, could be achieved this is considered to represent a benefit to be weighed in the planning balance.

#### Design/visual impact

81. CDP Policy 6 d) requires that development on unallocated sites is appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement. CDP Policy 29 outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
82. Policy 40 (Trees, Woodlands and Hedges) states that 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. The policy sets out that proposals for new development resulting in the loss of woodland will not be permitted unless the benefits of the proposal clearly outweigh the impact and suitable replacement planting, either within the site or beyond the site boundary can be undertaken.
83. Policy 39 of the County Durham Plan states proposals for new development will 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 would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects.
84. As set out above the development would result in the removal of approximately 0.38ha of woodland and 0.20ha of grassland. The land in question is read as part of the wider Watling Wood which provides a visual buffer between the wider industrial estate and residential properties to the northeast.
85. Although the application is in outline form, it is considered that the scale and indicative appearance of the proposed unit would broadly relate to the character of the existing industrial areas to the south. However, the removal of trees from the existing established woodland area would reduce the extent of natural green space and land with rural character. Although the submitted Arboricultural Implications Assessment concludes that the trees are of low value, the



Council's Landscape Officer considers that some of the tree specimens are semi mature and the trees as a group have a high amenity value. It is also advised that the visual effects of the development would be major and adverse in the context of users of the adjacent informal paths in the area.

86. Overall, whilst the design and appearance of the building would broadly relate to the character of the existing industrial areas. The loss of trees which are considered to have group value and read as part of the wider woodland, would result in a significant and adverse visual impact, in conflict with Policies 6, 29, 39 and 40 of the CDP and Parts 12 and 15 of the NPPF.

#### Highway Issues

87. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. CDP Policy 6 criteria (e) requires development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
88. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
89. The applicant proposes to upgrade the existing access onto the highway, which would run past the existing building extending around the back of the site and then exiting adjacent to the western site boundary. A one-way system would be implemented to ensure that deliveries could be taken off the highway.
90. A Transport Statement has been submitted in support of the application setting out that an anticipated 7 weekly HGV movements and 10 flat bed movements would occur on a weekly basis.
91. In reviewing the submitted information, the Highway Authority offers no objections to the proposals subject to agreeing the design and construction of the access points. On this basis it is considered that the development would not adversely impact on highway safety and a suitable means of access could be achieved. Conditions could control the parking layout and the provision of EV charging units. The development would accord with CDP Policies 6 and 21 and Part 9 of the NPPF in this respect.
92. The applicant considers that the development and resultant access works would result in an improvement to highway safety. It is advised currently HGV's and other vehicles reverse from the site from the vehicular access point. While the Highways Authority do not advise that the current access arrangements are unsafe and recognising the location of the unit in an industrial estate with relatively limited pedestrian movements, the proposed access arrangements would improve the current arrangements. This is a benefit to taken into account in the planning balance.

## Residential Amenity

93. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours 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. CDP Policy 29 e) seeks to minimise the impact of development upon the occupants of existing adjacent and nearby properties.
94. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
95. The nearest residential property is located approximately 300m away with intervening developments.
96. The Councils Environmental Health Nuisance Action Team initially raised concerns regarding the potential for the installation of additional installation of external air handling units relating to dust extraction. However, the applicant has provided clarity advising that it is not envisaged that additional units would be required, however this matter could be controlled by condition, along with agreeing the details of any other external plant. Given the established use of the site and potential control by condition no objections are raised from the Councils Environmental Health Nuisance Action Team.
97. It is considered that subject to appropriate conditions the development would not impact on the amenity of surrounding land users and would comply with Policies 6, 29 and 31 of the CDP and Parts 12 and 15 of the NPPF.

## Ground Conditions

98. Part 15 of the NPPF seeks to prevent unacceptable risks from pollution and land stability. Where a site is affected by contamination or where land stability issues arise, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 seeks to resist development where the developer is unable to demonstrate that any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development
99. In this respect a Phase 1 ground investigation report with respect to land contamination has been submitted. The Council's Environmental Health Land Contamination Team agree with the conclusions and recommendations within the phase 1 report, and raise no objections, subject to the imposition of a contaminated land condition.
100. A coal mining risk assessment has been submitted setting out a programme of site investigations, including boreholes to establish the depth of any previous shallow coal mining activity. A mitigation strategy which may require localised site stability works though grouting may be required. These matters can be controlled by condition.

101. Subject to the above conditions, the proposals would satisfy the provisions of Part 15 of the NPPF and CDP Policy 32.

#### Drainage

102. CDP Policy 35 seeks to ensure that applications 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.
103. A drainage strategy at this stage, while recognising the extensive hardstanding's a scheme of attenuation and treatment will need to be devised. Given the nature of the application, it is considered that this matter can be addressed by a conditional approach and would not warrant an additional reason for refusal in accordance with Policy 35 of the CDP.

#### Other Matters

104. Policy 56 of the CDP seeks to safeguard mineral resources. Significant areas of the County fall into such mineral safeguarding areas, including the application site and wider area. Although a non-mineral development is proposed, it is not considered that the current proposals would sterilise mineral resource taking into account the scale of the site and residential setting. No objections are raised in this regard and the proposal does not conflict with Policy 56.

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## CONCLUSION

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105. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
106. The development would result in the formation of an additional industrial unit to facilitate the expansion and more efficient operation of an established business. Based on the applicants figures the development would result in the formation of an additional 10 full time jobs on the site and would also improve the access and manoeuvring around the site, to the benefit of all highway users.
107. However, the proposal would result in the loss of approximately 0.32ha of community woodland and 0.20ha of grass land. These areas have a recreational value and part of the site is designated as Accessible Natural Green Space in the Councils Open Space Needs Assessment. An assessment to clearly show the open space is surplus to requirements has not been undertaken in conflict with CDP Policy 26 and Part 8 of the NPPF. Whilst a mitigation strategy has been presented to improve the quality and biodiversity of the woodland it is concluded that this would not result in a greater recreational value over and above the open space lost in conflict with CDP Policy 26. The development would not mitigate the quantum of woodland lost as required under CDP Policies 26 and 40. Whilst a Biodiversity Net Gain of approximately

10.4% above baseline would be provided in excess of policy requirements, this is not considered to outweigh the identified policy even taking into account the other identified benefits of the scheme.

108. The loss of trees which are considered to have group value and read as part of the wider woodland, would result in a significant and adverse visual impact, in conflict with Policies 6, 29, 39 and 40 of the CDP and Parts 12 and 15 of the NPPF.
109. Other technical matters could be addressed by relevant conditions.
110. Overall it is concluded that the development conflicts with Policies 6, 26, 29, 39 and 40 of the County Durham Plan and Parts 8, 12 and 15 of the NPPF. While recognising the identified benefits of the scheme it is concluded that these benefits would not outweigh the identified policy conflict. There are no material considerations which indicate otherwise and therefore the application is recommended for refusal.

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## **RECOMMENDATION**

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That the application be **REFUSED** subject for the following reasons:

1. The development would result in the loss of woodland and grassland which is considered to provide an important recreational and amenity functional to the local area and community. An assessment to clearly show the open space is surplus to requirements has not been undertaken, while the proposed mitigation strategy would not make provision for an equivalent or greater value. The benefits arising from the development are not considered to clearly outweigh the harm arising from the loss of the open space and woodland. The development is considered contrary to Policies 6, 26, 39 and 40 of the County Durham Plan and Parts 8, 12 and 15 of the National Planning Policy Framework.

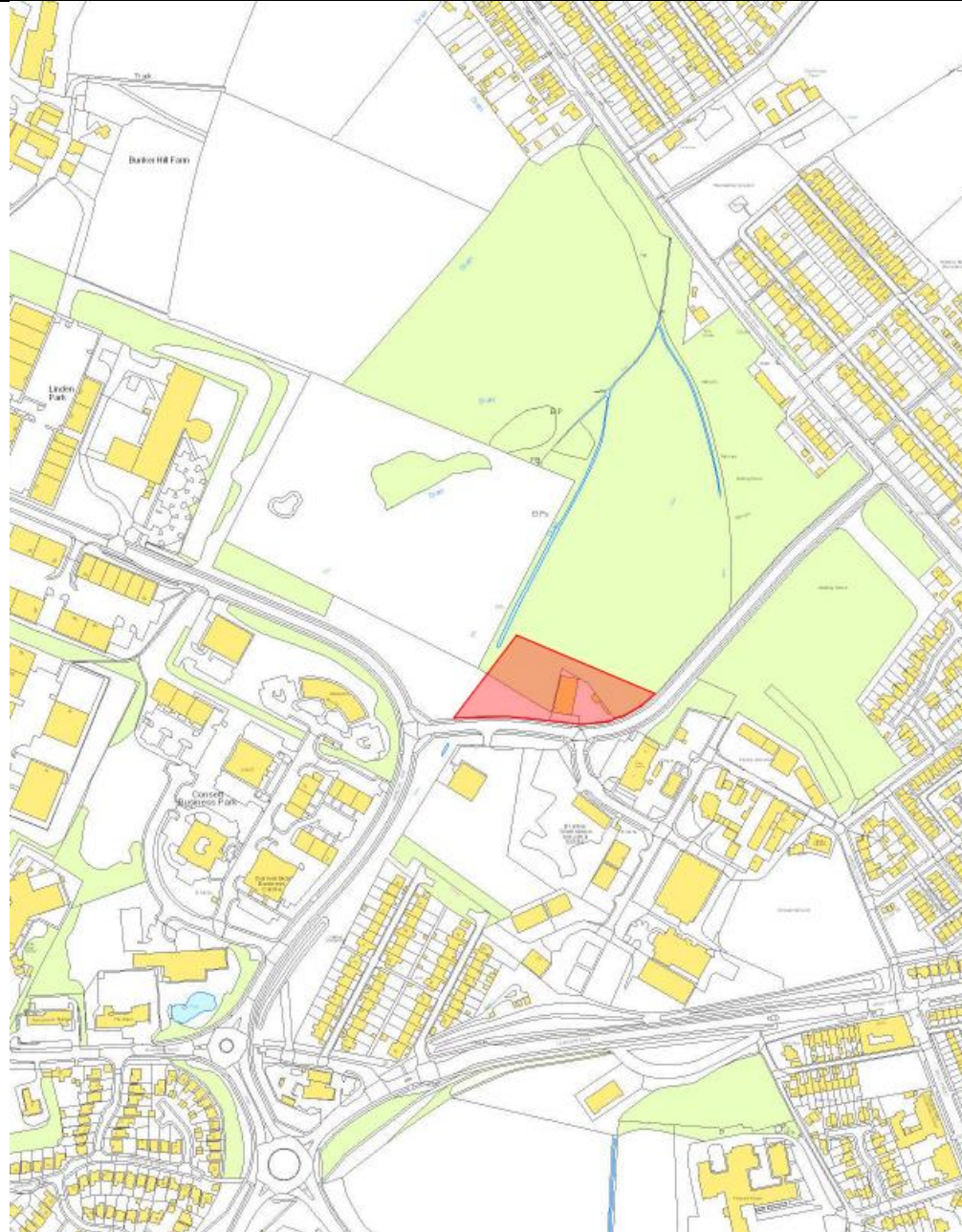
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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
Residential Amenity Standards Supplementary Planning Document 2020  
Statutory consultation responses  
Internal consultation responses





<b>Planning Services</b>	Outline Application seeking planning permission for a change of use of the land to E(g) (light industrial use), the erection of new building to support this change of use and associated works. All matters reserved except for access, scale and layout	
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005	<b>Comments</b>	
	<b>Date:</b> 18 <sup>th</sup> July 2023	



## Planning Services

# COMMITTEE REPORT

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## APPLICATION DETAILS

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Application No:	DM/23/00446/FPA
Proposal:	Change of use from commercial (Public House) to a five-bedroom residential dwelling (C3)
Name of Applicant:	Miss Trysha Suddick
Address:	The Chelmsford, Front Street, Ebchester, Consett, DH8 0PJ
Electoral Division:	Leadgate and Medomsley
Case Officer:	Sarah Seabury Planning Officer 03000 261 393 <a href="mailto:sarah.seabury@durham.gov.uk">sarah.seabury@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSAL

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### The Site

1. The application site is located within the village of Ebchester on Front Street. The application site consists of The Chelmsford Public House and surrounding car park. The Chelmsford is a two-storey building stone building with a slate roof dating from 1890. The building has been altered over the years with small extensions and rendering. The site is accessed from Front Street to the west.
2. The application site is located within the Ebchester Conservation Area and three Listed Buildings are located to the north, west and south.
3. The land to the rear of the pub comprises a residential development plot and woodland.

### The Proposal

4. The proposal is for conversion of the existing building to a single dwelling. To facilitate this the applicant is proposing the removal of the public house branding and to re-expose the original stonework with rendered sections re-painted. The windows are to be replaced but no details provided. No further external works would be carried out.
5. No details of external landscaping have been provided.

6. The application in being reported to committee at the request of Councillor Stephen Robinson to consider the viability of the public house because of the complexity regarding the complaints made against members regarding this application.

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## **PLANNING HISTORY**

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7. A planning application was submitted on 29 March 2022 for the change of use from public house to 4 bed dwelling. A total of 35 letters of objection were received. This application was withdrawn by the applicant on 22 November 2022.

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## **PLANNING POLICIES**

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### **NATIONAL POLICY:**

8. A revised National Planning Policy Framework (NPPF) was published in July 2021 (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.
9. *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.
10. *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.
11. *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.
12. *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.
13. *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.

14. *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.
15. *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.
16. *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.
17. *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.
18. *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>

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

19. 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 design process and tools; determining a planning application; flood risk; healthy and safe communities; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; public rights of way and local green space and use of planning conditions

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

#### **LOCAL PLAN POLICY:**

20. Policy 6 (Development on Unallocated Sites) supports 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 character of the 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; makes use of previously developed land and reflects priorities for urban regeneration.
21. *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.
22. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside. Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development. Provision for infrastructure development includes; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity. Provision for development of existing buildings includes: change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.
23. *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 the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
24. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards.
25. *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.

26. *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.
27. *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.
28. *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.
29. *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.
30. Residential Amenity Standards SPD (2023 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

<https://www.durham.gov.uk/cdp>

31. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY CONSULTEE RESPONSES:

32. *Highways Authority* – No objections would be raised

### NON-STATUTORY CONSULTEE RESPONSES:

33. *Design and Conservation* - The building has undergone a level of alteration over time, including the modest extensions with rendered sections of walling. There would be no concern with this render remaining in situ and for stonework elsewhere to be exposed should it be historic. Elevation plans also note that windows may be replaced but are not clarified on the plans. There is potential for enhancement in terms of reintroducing an appropriate traditional style.
34. *Ecology* – Given there are no external alterations or alternations to roof spaces proposed the risk to bat roosts are negligible and so no further works required.
35. *Nuisance Action Team* – The property has benefited from residential use, upstairs, in the past, it is in a similar setting to other residential properties in relation to proximity to the A694, to ensure suitable sound levels are achieved internally planners may wish to consider applying a noise condition. Any noise mitigation measures required shall be installed prior to the beneficial occupation of the development and shall be permanently retained thereafter. In addition, I can confirm that I have 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 would comment as follows: I am satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.
36. *Spatial Policy* – The applicant needs to demonstrate that the public house is no longer viable in accordance with the requirements set down under Policies 6 and 9. If the case officer is satisfied that the public house is no longer viable then any detailed alterations would need to accord with CDP policy requirements - including but not limited to, those set down under 29 and 44 - given the heritage value and prominence of the building in the conservation area.
37. The applicant needs to provide evidence demonstrating that there was a lack of market interest in the public house. This was to satisfy criteria g.) of Policy 6 of the County Durham Plan (CDP) (2020) which states that information / evidence should be provided to demonstrate that the public house is no longer viable. The supporting text to the policy notes that applicants must be able to provide evidence that the premises has been advertised as a going concern in the press, online and on-site, at least four times within a six-month period and all reasonable offers have been explored. It also confirms that this evidence will be considered on a case-by-case basis.

38. The Marketing and Viability report received May 2023 is very similar to what was submitted in March 2023. This additional information does not include the actual evidence that the premises was advertised as a going concern in the press, online and on-site, at least four times within a six-month period and all reasonable offers have been explored. We had previously said that we were of the view that it fell short of what was required. What has been provided is the sales particulars (with two agents: Sidney Phillips & Pattinson) relating to the property, but no details have been provided from either of those agents confirming the length of time they listed the property for sale, together with details of the level of interest and/or offers which were made for the property. Without this information, we cannot conclude that the requirements of Policy 6 have been met. To rectify this, the applicant should be requested to provide letters from both agents which contains this information required by Policy 6.

#### **PUBLIC CONSULTATION:**

39. The application has been advertised by way of a site notice, and individual neighbour notification letters have been sent to neighbouring properties.
40. Only a single letter of representation was received from Ebchester Village Trust. The letter states that whilst they do not want to see the demise of the village pub, they consider that there is probably no realistic alternative to its change of use. The letter makes the following requests:
- The building should look residential rather than like a public house
  - The rendered areas are returned to stone
  - The 'toilet block' extension be removed
  - A smaller window should be installed to the gable end
  - Details of the replacement windows should be provided for approval
  - A stone wall should be constructed to the front of the property
  - Amenity space should be included on the plans
  - Only a single residential property should be allowed rather than flats

*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/>*

#### **APPLICANTS STATEMENT**

41. The applicant has previously listed The Chelmsford for sale commercially as a public house with Sidney Phillips and Pattinson Estate Agents. Neither commercial listing resulted in an acceptable offer for the building. During this period of time the applicant put a great deal of time and money into trying to grow the business to make it a thriving hospitality venue. These efforts are detailed in the Marketing and Viability Report. In spite of the applicant's best attempts, the business remained economically stagnant. The applicant has borne the entirety of the costs incurred in the running of the business, and has never taken a salary from it.
42. Covid effectively closed the business in March 2020. Hospitality generally was significantly damaged during the pandemic, and many public houses have not re-opened since. The Chelmsford was dwindling as a business before this, and covid dealt the final blow. The applicant reached the conclusion that no amount of effort

was going to see the building thrive as a public house business, and made the decision to sell the property and apply for planning permission to change the use to a private 5-bedroom dwelling, which is detailed within the current application proposals.

43. The building was marketed by JW Wood for a significant amount of time from August 2021, as a pub in its' existing use, but with the potential for development. There were a number of viewings, but no interested parties considering buying it as a business; all indicated they were only interested in the building as a potential residential development opportunity.
44. There have been understandable concerns within the local community regarding the application. The Chelmsford was cherished by many as a local amenity for decades. Throughout the entirety of the time the business was advertised for sale, with 3 different agents, there have been no offers or approaches made to buy the building from any community group, or individual.
45. The property remains vacant and deteriorating, and the fabric of the structure is degrading over time. The applicant will not re-open the building as a public house, and there is demonstrable evidence that it will not sell as a commercial building. There is no other feasible commercial use for it. Allowing the change of use would improve the building's appearance and enhance the visual amenity of the neighbourhood. The building has historic value and deserves to be maintained.
46. The recent communication from Ebchester Village Trust states that the members acknowledge there is "probably no realistic alternative" to the change of use. The trustees have put forward a number of suggestions to develop the building in a sympathetic manner. The applicant would abide by any condition the committee feels necessary in order to pass this application. There are no listed objections associated with the current application, only supportive or neutral comments.
47. Within close proximity to the site, the Council have granted similar applications to change the use of former licensed premises to domestic dwellings. Should this application be granted, it would be consistent with other recent decisions. The applicant considers the proposals are reasonable, proportionate, respectful to the building's historic integrity, and in keeping with local policy.
48. The applicant beseeches the committee to consider this application in good faith and without prejudice. The applicant feels that the benefits which will be derived in allowing this application to pass, far outweigh any negative impacts upon the locality, and has demonstrated this in associated documents including the Heritage Statement, Marketing and Viability Report and other supporting information.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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49. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The main considerations in regard to this application are the principle of the development, impact on heritage assets,

housing need, design and impact on neighbouring amenity, highways safety and sustainable transport, impact on ecology and drainage and surface water.

#### Principle of the Development

50. The application proposes the change of use of an existing public house into a residential dwelling. Policy 6 allows development of sites which are not allocated within the Plan but which are located within the built-up area. The site is located within the village of Ebchester and is therefore considered to be within the built-up area. Policy 6 sets out criteria which such development must meet. In this instance the proposal must meet the requirements of criteria (a), (d), (e), (f), (g), (h) and (i).
51. The proposal would reuse an existing building within a predominately residential area. The proposal is therefore in accordance with Policies 6(a) and (i). Discussions relating to criteria (d), (e), (f), (g) and (h) will be covered later in the report.

#### Loss of a community asset

52. Policy 9 defines a retail hierarchy for the county and seeks to protect and enhance the centres within the hierarchy. It goes on to advise that those locations outwith those identified in the hierarchy the loss of essential shops and services will be resisted. The supporting text goes on to identify that within smaller settlements, a local shop/convenience store or community facility such as a pub is of even greater importance to the local population and therefore the unnecessary loss of shops, community or cultural facilities within the county's smaller settlements should be avoided where possible.
53. The Plan further states that in assessing applications that would potentially see the loss of such facilities, particular consideration will be given to the accessibility or availability of equivalent facilities nearby and the role that facility plays within the settlement, in addition it highlights that the views of local people and relevant town or parish councils will be of particular importance in assessing such applications.
54. Policy 6(g) states that development should not result in the loss of a settlements or neighbourhoods valued facilities or services unless it has been demonstrated that they are no longer viable.
55. The supporting text to the policy notes that applicants must be able to provide evidence that the premises have:
- been advertised as a going concern in the press, online and on-site, at least four times within a six-month period and;
  - all reasonable offers have been explored.
56. It also confirms that this evidence will be considered on a case-by-case basis. This is supported within the NPPF under paragraph 84d) which requires proposals to enable the retention and development of accessible local services and community facilities, including pubs and paragraph 93c) which requires proposals to guard against the unnecessary loss of valued facilities and services.

#### *Community Value*

57. The Chelmsford is the only pub within the village and is therefore considered to be a community asset. Applications which propose the loss of pubs are often assessed

against the Campaign for Real Ale (CAMRA) 'Public House Viability Test'. Although this is not a Policy requirement, the test considers several criteria to assess the continued viability of a pub business many of which include considerations from Policy 9. This includes local trade, customer potential, competition, flexibility of the site, parking, public transport, multiple use, partial loss, competition case studies, the business-past and present and the sale. These are discussed below.

58. In respect of visitor potential and local trade, the pub is located within the village of Ebchester with local historical sites and the River Derwent attracting visitors into the area. There are also walking routes leading into the village. In addition, the area benefits from a rowing club which attracts people into the area. The village itself benefits from over 400 properties therefore it is considered that there is a good local population in the area. In terms of neighbour interest in the application, only the Ebchester Village Trust have responded to neighbour notification for this application. They have stated that whilst they do not want to see the demise of the village pub, they consider that there is probably no realistic alternative to its change of use. The previous application, which was withdrawn, had over 35 letters of representation raising concerns regarding the loss of the pub however no further letters were received as a result of this application and no application has been received to include The Chelmsford on the 'asset of community value' list. This may be the result of the length of time the business has been closed impacting local interest. Nevertheless, this alone does not demonstrate that the pub would not be used should it reopen.
59. The Chelmsford is the only pub within the village of Ebchester, with the next nearest pub, The Derwent Walk Inn located over 700m to the southwest of The Chelmsford within Ebchester Hill. There are a further 2 pubs within 1.5 miles of the application site, The Royal Oak and The Miners Arms located within Medomsley. Whilst those living closest to The Chelmsford would need to use private cars or public transport to access these pubs, these options are not considered to be an unreasonable distance from these properties. Nevertheless, The Chelmsford is located within the settlement and is a walkable option for those living within Ebchester or those visiting local attractions. It is therefore considered that there is limited competition for customers within 1.5 miles of the pub and that as the sole remaining pub within the settlement it is a valuable community asset.
60. In terms of the flexibility of the site, the building itself benefits from a 3-bedroom flat the first floor together with the pub. Whilst the two plots to the rear of the property have been sold resulting in a reduction in the available outside space for the pub some space has been retained which can be used for outdoor seating or parking. Should any future owner not wish to reside onsite they would have the option to rent the first floor flat as visitor accommodation to bring in additional revenue. Furthermore, based on the marketing information submitted by the applicant the building and flat are in good condition and would not require extensive works to bring back into use. It is considered therefore that the site overall is flexible in terms of being brought back into use.
61. Parking and public transport comprise the next two tests on the Viability Test. As the plots to the rear of the building have been sold the available parking spaces have been reduced to 4 to the front and 4 to the rear. However, given the central location of the pub within the village local users would easily be able to walk to the pub should they wish. Additionally, the site can be accessed by public transport with the nearest bus stop less than 100m from the pub connecting Ebchester to Consett, the Metrocentre and Newcastle. On balance, given the options for public transport and



village location it is considered that the parking provision is sufficient, and the site is accessible.

62. In terms of multiple use of the building, the local area benefits from a community centre, church and shop. Therefore, it is considered that there are existing community facilities within the area and that it is unlikely that there would be demand for the use of the pub for community activities given the availability of the community centre. Nevertheless, the pub could be utilised for local and private events if any future owner desired to offer these.
63. Given the nature of the proposal and the distance to the nearest pub it is considered that parts 8 (partial loss) and 9 (competition case studies) of the Viability Test are not relevant in this instance.
64. Based on the above, The Chelmsford is the only pub within walking distance within the village of Ebchester and the area itself attracts visitors for both recreation and historical interest. The pub would therefore not be solely reliant on local trade and there is limited competition in the area. Whilst parking is limited on site there is some available and customers have access to sustainable transport options as an alternative. It is considered in light of this, that the applicant has failed to demonstrate that the pub is not viable in line with parts 1-9 of the CAMRA Public House Viability Test.

#### *Marketing and Business Viability*

65. The final two criteria of the Viability Test focus on the business past and present and the sale of the property. These elements are also key considerations for Policy 6(g), which requires the applicant to demonstrate that the business is no longer viable and that the required evidence is provided with regard to marketing.
66. Only limited details have been provided with regard to historical trading performance. The sales particulars from 2017 by Sidney Philips state that the applicant operated the business on a part-time basis due to the applicant's other businesses. It is stated that at that time they were able to achieve an average of £3000 net only, per week. The (unaudited) accounts submitted in support of the application cover the period 2016 to July 2019. The applicant has advised that the minimum weekly takings would need to be £5000 just to keep the business open. Therefore, longer opening hours and diversification into catering has the potential to boost turnover. Whilst it is recognised this is based on figures from 2017 these are the only figures provided by the applicant for consideration. The applicant has advised that the property was then tenanted in 2018 and subsequently opened under a new manager in October 2019. The pub has not reopened since March 2020 and the Covid lockdown. There has been no effort on the part of the applicant to reopen the pub or increase turnover since lockdown. There is a lack of evidence provided by the applicant in terms of verified audited accounts, a business plan or viability assessment to demonstrate that the pub is not or would not be a viable business. There is no evidence at this time that a new pub operation would necessarily fail.
67. The applicant has provided copies of the sales advertisements for the property from Sidney Philips estate agents from May 2017 and Pattinson estate agents which they advise they switched too, with a lower price, after no interest from the Sidney Philips advert however no specific date is given. The applicant has not provided a marketing report from either of these estate agents which provides information with regard to

the length of time the property was listed for sale or the level of interest and/or offers which were made for the property at the time of these listings.

68. The applicant has however, provided their own marketing and viability report to support the application. This report only refers to marketing by JW Wood estate agents and makes no reference to the previous marketing by Sidney Philips or Pattinson. It advises that the property was valued by JW Wood in August 2021 and advertised by them at that time until June 2022 via multiple websites. It states that the valuation was split into three parts including two building plots to the rear of the pub, one with existing permission for residential development and the premises themselves. The applicant has advised that the Plot 1 was valued at £130,000, Plot 2 at £120,000 and The Chelmsford itself at offers over £300,000, either as a 5- or 6-bedroom detached house or split into two 3-bedroom apartments. However, the applicant has provided no copy of the estate agents valuation report or the details of the sales particulars which were used to advertise at that time. Furthermore, whilst the applicant states that the pub was advertised as a 'Public House' a copy of the sales particulars from OnTheMarket.com with the agent listed as JW Wood describe the property as a 'detached house' and state that the pub is now closed. The applicant has stated that they had five viewings as a result of the JW Wood listing, but no offers were received, and that feedback advised that any interested parties would only be interested in developing the property for residential use. No information is provided in the listing regarding the trading information for the pub, the opening hours, licencing details, or rateable value which potential operators would expect to see in a commercial listing of this nature. As set out above the lack of a marketing report from the estate agents themselves weighs against the application as there is no evidence to demonstrate that there is no market interest in the public house or that it is unviable.
69. The applicant could also have opted to provide an independent viability report in support of their application. However, this has not been provided. Neither has a business plan or alternative business models. The applicant has advised that this is because they do not wish to retain the building and are therefore only looking to sell the premises.
70. The marketing until June 2022 included The Chelmsford and the two plots to the rear of the building. The plots were sold in July 2022 with only The Chelmsford remaining within the ownership of the applicant. The pub has not been remarketed as a single unit or at a revised price to reflect the loss of the additional plots of land.
71. The CAMRA have been consulted on the proposal but have provided no comment to date.
72. The Chelmsford is therefore considered to be a valued community asset. The loss of such a community facility which would be significantly harmful to the quality of life of the local community. It is for the applicant to demonstrate that the loss of such a community asset is justified in terms of its future viability. No meaningful evidence has been provided that demonstrates that the property has been advertised for a suitable length of time, or as a going concern or that all reasonable offers have been explored. Without such evidence it is considered premature to conclude that the property is not of interest to another operator or that the public house itself is unviable. The applicant has failed to demonstrate that it is not a viable business. As such the proposal is considered to be contrary to Policies 6(g) and 9 of the County Durham Plan. It would also conflict with paragraphs 84d) and 93c) of the Framework which

requires planning decisions to retain and guard against the unnecessary loss of valued and accessible facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

#### Impact on heritage assets

73. 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.
74. The Chelmsford is located within the Ebchester Conservation Area. It is specifically noted within the Ebchester Conservation Area character appraisal:
75. *"The only public house in the heart of the village. Built in 1890. The post office, which was once attached to the Front elevation has since been demolished. Stone building with slate roof. Although it has undergone significant alteration that has undermined its character, its south elevation has an important townscape value in the village when viewed alongside the listed Burn House and Jubilee House".*
76. The building is considered to be a prominent building within the Conservation Area and village centre. The applicant is proposing limited external changes to the building to convert into a residential property. The public house branding would be removed, that the original stonework would be re-exposed and the rendered sections of the building repainted to match the stonework. The windows would be upgraded but no details have been provided on the specification however this detail could be controlled by condition. The Design and Conservation Officer has advised that the building has undergone a number of changes over the years and that the proposed works would not harm the Conservation Area. It is considered that the proposal would not result in harm to the character or appearance of the Conservation Area or the building itself, therefore the proposal, subject to a condition relating to the windows, is in accordance with Policy 44 of the County Durham Plan and would cause no harm to the heritage asset which would be preserved in accordance with Part 16 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Housing Need

77. The Council has established a 6-year housing land supply therefore the need for new housing is afforded limited weight in terms of a benefit to the proposal. However, this does not mean that new housing cannot be supported. In this instance there is no justification for the loss of a community asset therefore this loss is not outweighed by the benefit of additional housing.

#### Design and impact on neighbouring amenity

78. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity

and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards. The Council's Residential Amenity Standards SPD offers advice in relation to the design of new developments, including minimum privacy distances and garden spaces. Policy 6(d) also requires that the proposal is appropriate in terms of scale, design, layout and location not the character, function, form and setting of the settlement. Policy 31 seeks to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided.

79. As set out above, the building itself is considered to make a positive contribution to the character and appearance of the area. As set out above the Design and Conservation Officer raises no objection to the proposed limited changes to the building.
80. There are existing residential properties to the north, west and south. The SPD requires a minimum separation distance of 21m between two storey dwellings with windows to habitable rooms. Properties to the west and south of the application site are located in excess of 21m from the application site. There is a single window in the northern elevation of The Chelmsford which overlooks the neighbouring property, the School House, to the north. This window is currently a bedroom window and would be retained as a bedroom window. The proposal would retain the existing level of overlooking currently experienced between the two properties rather than increasing it. To the east of the site is the building plot which the applicant has sold. The previously approved dwelling is currently under construction and the western elevation of the dwelling will face onto the rear elevation of The Chelmsford. The property would be located 23m from this elevation therefore achieves the minimum required separation distance. It is therefore considered that the proposal meets the required minimum separation distances between the properties and therefore would not result in an unacceptable impact on the neighbouring property.
81. In addition, the existing car park would be landscaped to provide amenity space in excess of 9m for future occupants in line with the requirements of the SPD.
82. The Government have introduced 'Nationally described space standards' (NDSS) which set out the minimum floorspace required for dwellings, bedrooms and storage. The building currently comprises two floors with an approximate floorspace of approximately 249.2sq.m. It is proposed to provide 4 bedrooms at first floor level with an additional room labelled as a study/bedroom. Bedrooms 1 and 3 would have their internal ceiling heights raised to achieve the minimum required 2.2m headroom, nevertheless a 1.5m headroom could be achieved based on the submitted plans. The plans show a study which could be used as a bedroom, this would not meet the minimum requirements and therefore would need to be used as study. The remaining two bedrooms would meet the required floorspace.
83. One of the environmental objectives of the NPPF is to mitigate climate change and Policy 29(c) requires that the proposal is designed to reduce greenhouse emissions. A condition would therefore be recommended that would ensure the submission and implementation of a scheme to minimise greenhouse gas emissions if the proposal were deemed to be acceptable.
84. In terms of the noise and disturbance, the proposal would introduce residential use to the building in line with neighbouring properties. Overall, noise and disturbance

resulting from the use of the public house would be considered to be greater than that resulting from residential use therefore the impact on neighbouring properties would be reduced in the long term. However, it is acknowledged that there would be noise and disturbance resulting from the conversion works but as these would be temporary it is considered to be acceptable.

85. Given the above, it is considered that the proposal meets the requirements of Policies 6(d), 29 and 31 and the SPD of the County Durham Local Plan.

#### Highways safety and sustainable transport

86. Policy 6(e) requires proposals to not be prejudicial to highway safety and 6(f) requires good access to sustainable modes of transport. Policy 21 of the CDP 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. One of the social objectives of the NPPF is to support a strong, vibrant, and healthy community by fostering a built environment with accessible services. Paragraph 110 of the NPPF advises that in assessing applications for development appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location. Paragraph 112 advises that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible, and convenient locations.
87. The proposal would be 100m to bus stops which is considered accessible. These bus stops have regular services to Ebchester, Consett and Newcastle. Whilst there is a local shop any future occupant would need to travel to Consett or further afield to access larger and more diverse shops and services. However, given the distance to and accessibility of the bus stops it is not considered that there would be a heavy reliance on the private car for all journeys or that there is a need to include measures to improve sustainability in this case. Furthermore, it has been borne in mind that the former use would have involved a significantly greater number of car journeys. The proposed residential property would utilise the existing access and off-road parking would be provided in curtilage. In addition, the Highways Officer is raising no objection to the proposal.
88. It is therefore considered that the proposal meets the requirements of Policies 6(e)(f) and 21 of the County Durham Local Plan and the NPPF.

#### Impact on ecology

89. Policy 43 of the CDP requires all development that would likely have an adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution to not be permitted unless appropriate mitigation, or as a last resort compensation, can be provided, which maintains a viable population and where possible provides opportunities for the population to expand; and where the species is a European protected species, the proposal also meets the licensing criteria (the 3 legal tests) of overriding public interest, no satisfactory alternative and favourable conservation status. These policies are in accordance with section 15 of the NPPF.

90. The Ecologist has confirmed that no works are required. It is therefore considered that the proposal meets the requirements of Policy 43 of the County Durham Local Plan and the NPPF.

Drainage and surface water

91. The proposal would not alter the existing surface drainage situation that is currently in situ and the property is already connected to the public sewerage system. The proposal is therefore considered to be in accordance with the requirements of Policies 6(h), 35 and 36 of the County Durham Plan.

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## **CONCLUSION**

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92. The Chelmsford is the only pub within the village of Ebchester and therefore considered to be a community asset, the loss of which would be significantly harmful to the quality of life of the local community. The CAMRA Public House Viability Test demonstrates that there is both a local market of customers together with potential trade from visitors to the area. The lack of local competition puts The Chelmsford in a strong position. The test did not prove that the pub would be unviable.
93. The applicant has failed to provide meaningful evidence to demonstrate that the pub has been appropriately advertised for the minimum required time and that all reasonable offers have been explored to accord with the policy requirements, and therefore the loss of the community asset is therefore considered to be unjustified and therefore contrary to Policies 6(g) and 9 of the County Durham Plan.
94. All other considerations in terms of impact on heritage assets, housing need, design and impact on neighbouring amenity, highways safety and sustainable transport, impact on ecology, drainage and surface water are neutral or could be controlled via conditions.
95. The development has been assessed against all relevant policies of the County Durham Plan, it is concluded that the development would conflict with the identified policies, there are no material considerations which would outweigh the identified harm as a result of the policy conflict, or which would indicate a decision should be otherwise and therefore the application is recommended for refusal.

Public Sector Equality Duty

96. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
97. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **RECOMMENDATION**

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That the application be **REFUSED** for the following reasons:

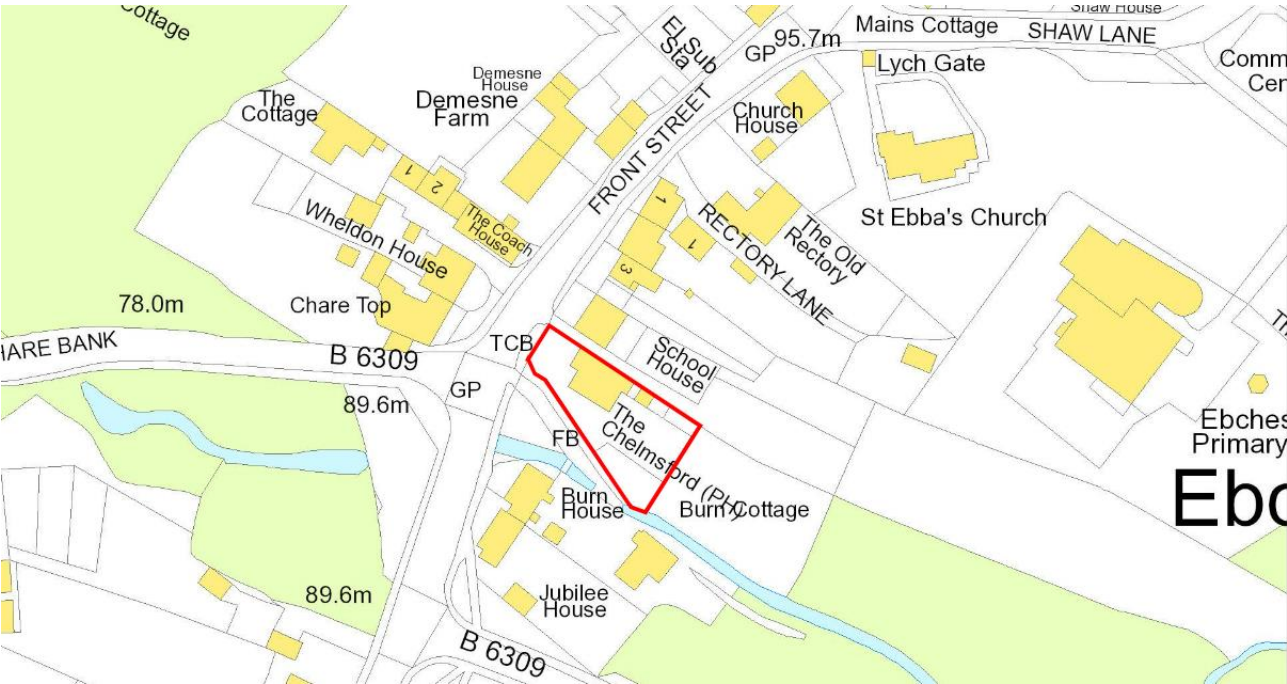
1. The pub use provides a community asset to the local community and its loss would have a negative impact upon the quality of life of the local community which has not been adequately justified by the viability, marketing and supporting information submitted with the application. The proposal is therefore in conflict with Policies 6(g) and 9 of the County Durham Plan and paragraphs 93(c) and 84(d) of the National Planning Policy Framework and there are no material considerations that indicate that the local plan should not be followed in this case.

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## **BACKGROUND PAPERS**

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The National Planning Policy Framework (revised 2021)  
National Planning Practice Guidance Notes  
Durham County Plan 2020  
Residential Amenity Standards Supplementary Planning Document  
Statutory, internal and public consultation responses  
Submitted forms, plans and supporting documents

		
<b>Planning Services</b>	Change of use from commercial (Public House) to a five-bedroom residential dwelling (C3)  Application Number DM/23/00446/FPA	
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005	<b>Comments</b>	
	<b>Date</b> 27 July 2023	<b>Scale</b> NTS



# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION No:	DM/22/02627/FPA
FULL APPLICATION DESCRIPTION:	Full planning application for the construction of new retail food store and associated parking.
NAME OF APPLICANT:	Almscliffe Dhesi Developments (Stanley) Ltd And The Go-Ahead Group Plc
ADDRESS:	Site of Former Bus Depot, Chester Road, East Stanley, DH9 0TH
ELECTORAL DIVISION:	Stanley
CASE OFFICER:	Louisa Ollivere, Senior Planning Officer 03000 264878, <a href="mailto:Louisa.ollivere@durham.gov.uk">Louisa.ollivere@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site:

1. The application site which extends to some 1.17 hectares is the site of the former Go Ahead Northern Bus depot located to the south of Chester Road in East Stanley. The site is currently vacant except for a Mobile Phone Mast in the south east corner and has been cleared of all former buildings and is currently mainly concrete hardstanding with some mature trees within the east of the site. It is currently mostly enclosed with temporary security fencing. A Public Right of Way (Byway 37) runs north-south through the site along the western boundary outside of the temporary fencing.
2. The site is bounded on the west by the North Durham Academy Campus. To the east are two car sales, repair and MOT garages (Gems Motors and Sunnyside Motor Company) both of which are subject of at the time of writing an undetermined planning application for the buildings to be demolished and redeveloped as petrol filling station with an ancillary shop, jet wash and car wash (ref; DM/22/03375/FPA). This is likely to have been determined by the date of the Committee. North of the site and Chester Road lies a Petrol Filling Station with ancillary shop. To the south are residential estates built in the 1970's.
3. The site previously had two accesses from Chester Road to provide separate access and egress for the Buses entering and leaving the depot.

### Proposal:

4. This application proposes the erection of 1895sqm of Commercial use (class Ea) within one large single storey unit set back within the south of the site. There would be associated car parking to the front of the site and to the east of the site amounting to

121 spaces including 5 accessible spaces and 8 EV Parking spaces and parent and child spaces. Several trees and the current mast compound would be removed from the east of the site to facilitate the development. Landscaping is proposed to the front of the site, around the parking areas, to the south of the retail unit and adjacent to the altered route for the PROW.

5. The proposed building would be single storey with a sloping roofline ranging from 5.4m to 7m in height. The façade treatment is of a modern design using grey flat panel cladding reflective of the company brand. The northern elevation would incorporate a large area of glazing to allow views into and out of the shop floor. The eastern elevation will accommodate the main entrance into the site. The western and southern elevations are plain with only service accesses.
6. The site would be served by a single new access from Chester Road with off site works involving a new protected right hand turn into the site and a new right hand turn into the garage opposite alongside a new pedestrian crossing.
7. It is envisaged that the proposed use would create 40 full time jobs. The hours of opening proposed are 07:00 to 23:00 Mon-Sat and 10:00 to 16:00 Sundays and Bank Holidays.
8. This application is being reported to the North Planning Committee as it relates to a major commercial development proposal in excess of 1000sqm of floor space.

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## **PLANNING HISTORY**

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9. 1/0000/0959/35823 Erection of temporary garage. Approved 1<sup>st</sup> January 1992
10. 1/0000/1092/36422 Garage. Approved 1<sup>st</sup> January 1992.
11. 1/2000/0730/12215 Installation of dishes and antennae onto existing mast. Pending.
12. 1/2000/0749/12251 Extension of existing telecommunications tower by 6 metres, erection of two 1.2M dish antenna, ten 0.6M dish antenna, six dual polar antenna and equipment cabin. Approved 7<sup>th</sup> February 2001.
13. DM/22/02764/AD Advertisement consent for the installation of two large column mounted signs; three large advertising billboard wall mounted signs; one poster display unit; two small wall mounted billboards and one flagpole sign. Pending.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

14. A revised National Planning Policy Framework (NPPF) was published in July 2021. 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.
15. In accordance with Paragraph 219 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.

16. *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.
17. *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.
18. *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.
19. *NPPF Part 7 Ensuring the vitality of town centres* - Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
20. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive and safe communities. 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 community facilities and services should be adopted.
21. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
22. *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.
23. *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.

24. *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.
25. *NPPF Part 15 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, sites of biodiversity or 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.
- <https://www.gov.uk/government/publications/national-planning-policy-framework--2>
26. 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; determining a planning application; flood risk and coastal change; healthy and safe communities; light pollution; natural environment; noise; renewable and low carbon energy; 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>

#### **LOCAL PLAN POLICY:**

The County Durham Plan (October 2020)

27. *Policy 6 (Development on Unallocated Sites)* supports 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 character of the 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; makes use of previously developed land and reflects priorities for urban regeneration.
28. *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.
29. *Policy 21 – Delivering Sustainable Transport* – Requires planning applications to address the transport implications of the proposed development. All development shall 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.

30. *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.
31. *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).
32. *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 the development can be effectively integrated 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 to an acceptable level.
33. *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.
34. *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.
35. *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.
36. *Policy 39 – Landscape* – States that 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 landscape and visual impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities of the landscape, unless the benefits of the development clearly outweigh its impacts. Development proposals should have regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy and contribute, where possible, to the conservation or enhancement of the local landscape.

37. *Policy 40 – Trees, Woodlands and Hedges* – States that 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. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
38. *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 well as biodiversity net gains. Proposals are expected to protect geological features and have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitat(s) will not be permitted unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

#### **NEIGHBOURHOOD PLAN:**

39. 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)

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

40. *Highway Authority* – Have no objections to the amended layout and access subject to condition that full engineering details of the access, pedestrian refuge island and highway road marking improvement works on the A693 be submitted for approval prior to commencement and that the works be undertaken before the site is brought into use.
41. *National Highways* – No objection.
42. *Northumbrian Water* – Request a condition to ensure that foul and surface water drainage details are agreed.
43. *Drainage* – Approve the surface water drainage management proposals and the hydraulic calculations. It is advised that the drainage system should be implemented in accordance with the submitted Flood Risk Assessment and Drainage Strategy Revision P05 submitted June 2023.

#### **EXTERNAL RESPONSES:**

44. *Durham Constabulary Crime Prevention Unit* – Recommend the PROW be well lit and landscaping be maintained to ensure sight lines, that the plant and service area be kept private from the public areas, that lighting columns rather than bollard lighting be used, that public areas are protected with fencing and planting, that the road, car park and footpath be adopted, that access is restricted to the car park at night and that there is full site security during construction.

## INTERNAL CONSULTTEE RESPONSES:

45. *Spatial Policy* – Advise that the main policies are policy 6 and 9 of the CDP. It is advised that this is a main town centre use in an out of centre site with the need for a sequential assessment and retail impact assessment identified. The Officer accepts the conclusions of the Sequential Assessment that other sites in Stanley are either too small or there are issues in terms of suitability for redevelopment and/or availability. Therefore, the Officer considers the sequential test to be passed.
46. In regards to retail impact, the Officer accepts the conclusions that the proposed retail store would not have a significant impact on Stanley Town Centre or any other centres in the catchment as it would likely clawback trade that is leaking out to stores in Consett which would reduce the levels of impact on Stanley Town Centre.
47. *Landscape* – Consider that site is already urban and industrial in character and concludes that the proposed buildings and landscaping would potentially represent an improvement. Concerns were initially raised about the visibility of parked cars, hard surfacing and buildings to the northern area which the applicants have addressed by proposing trees along the frontage and the Officer considers the amended landscape scheme to be suitable. It is considered that there should be more information about ongoing maintenance and management and that existing trees scheduled for retention be appropriately protected.
48. *Trees* – Advise that trees to be retained should be protected with fencing during construction. Trees in the east of the site to be removed should be replaced with planting within the south landscaped area.
49. *Design* – Recognise that the shape of the site has dictated that the building cannot be roadside and that the design is typical for such a use but incorporates positive elements such as animated elevations and a legible entrance and therefore have no objection.
50. *Environment, Health and Consumer Protection (Nuisance)* – No objection subject to conditions relating to submission and agreement of a Construction Management Plan (to include a Dust Action Plan), Noise levels, hours of opening, delivery hours, agreement of fume extraction equipment, control over lighting times and details of external lighting.
51. *Environment, Health and Consumer Protection (Contaminated Land)* – Note that the phase 1 report recommends further investigations and therefore requests conditions to ensure a phase 2 investigation and remediation and verification if the Phase 2 investigation concludes this as necessary.
52. *Environment, Health and Consumer Protection (Air Quality)* – Based on the information submitted the Officer considers that there is no need for further assessment in relation to construction traffic vehicle emissions or model verification but recommends that a Dust Management Plan be provided and approved prior to the commencement of any works.
53. *Sustainable Transport Officer* – Advises that the Framework Travel Plan included as a chapter within the Transport Statement does not provide sufficient detail and does not meet the required standard to be approved.
54. *Ecology* – Accept that the development meets the net gain requirements of the NPPF and Local Plan and no protected species are impacted upon. The Officer requests a



condition requiring the production of an agreed Management and Monitoring Plan for the site to be delivered over a period of 30 years to align with the landscape plan, ecological assessment and metric.

55. *Public Rights of Way Officer* – Notes that the amended plans indicate a 3m width for the public bridleway which is erroneously referred to as a footpath. It is advised that to accommodate the bridleway the existing route will require a legal diversion order and there is no objection subject to a diversion order being submitted before the development commences on site.

#### **PUBLIC RESPONSES:**

56. The application was advertised in the local press, by site notice and by direct notification to neighbouring properties. Two letters have been received in response to the consultation process from a telecommunications operator and a local resident whose concerns are summarised as follows:
- The Local Spa visitors have used the bus depot to park within which has eased parking and late night disturbance around the residential streets surrounding The Local Spa estate and this new retail car park could be similarly used but only if there were no parking restrictions between 20:00 and 08:00.
  - The loss of the Cellnex installation and the need for the retention of mobile connectivity for emergency services, local businesses and the general public is a material planning consideration and the loss of which would be contrary to the aims of national and local planning policy, it should be retained on site or the development should be subject of a condition that requires no removal until an alternative location has been agreed.

*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:**

57. The Proposed Development seeks to construct a new Lidl (food retail) store with associated car parking as well as hard and soft landscaping along Chester Road, Stanley.
58. Lidl opened its first store in Germany in 1973 and expanded into the UK in the 1990's. It now has over 620 stores in Britain. It operates at the discount end of the convenience food market and offers top quality products at the lowest prices. It achieves this by utilising small suppliers to provide 'own brand' products rather than stocking mainly household names. Costs are also kept down by stocking fewer lines; a typical Lidl store stocks about 1400 lines compared to 10-15,000 in main food stores such as Tesco or Asda. Nevertheless, the Lidl store would stock a good selection of fresh and frozen food as well as providing fresh bread daily from an in-store bakery. A small section of comparison goods is also stocked although the way in which these are sourced mean that there is little consistency in the products that are on sale at any one time. In this respect, comparison buys within a Lidl are very much 'impulse' buys rather than the store becoming a destination for non-food items in its own right.
59. The Lidl store will be 1,995sqm (GEA) located in the south-western portion of the site. Trolley bays are proposed adjacent to the north-east of the store. A surface level car park providing 121 car parking spaces will be located to the north and east of the store including EV charging bays, accessible bays and parent/children bays.



60. The site is located outside of the Stanley Town Centre boundary. It has been demonstrated through application of the Sequential Test that there are no other available, suitable or developable sites within or on the edge of Stanley which could accommodate the Proposed Development.
61. The retail impact assessment has been carried out in accordance with the requirements of the NPPF. Within the study area the majority of existing available expenditure is split between two existing stores (Asda and Aldi) with a large proportion of expenditure also going to stores in Consett. As such, it is considered that the proposed Lidl store would enhance the retail offer in Stanley which would contribute positively to the vitality and viability of the centre. Overall, the retail impact assessment concludes that the proposed development would not result in a negative impact on the vitality and viability of the defined centres within the study area.
62. Overall, the proposals will have significant benefits for the residents of Stanley by enhancing the retail offer there. It will bring a vacant brownfield site back into use, generating a number of benefits in the form of job creation(including temporary jobs during the construction period) and spending in the local economy, biodiversity net gain, and an encouragement of the use of sustainable modes of travel within a sustainable and accessible location and the provision of EV charging bays.
63. In addition, and as outlined in the planning submission documents, the proposals are compliant with relevant policies in the adopted Local Plan and the NPPF and therefore we respectfully request that planning permission be granted without delay.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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64. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues raised relate to the principle of development, economic impacts and impacts upon the vitality of the town centre, locational sustainability, highway safety and access, impact on residential amenity, its layout, design and scale, impacts to ecology and other technical matters.

### **Principle of the Development**

65. 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) is the statutory development plan 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. 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.

66. Where a planning application conflicts with an up-to-date development plan paragraph 12 of the NPPF advises that permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
67. As the CDP is up to date, paragraph 11(d) of the NPPF is not engaged.
68. As this is an unallocated site involving a town centre use in an out of town centre location the principle policies for consideration are CDP policy 6 (Development in Unallocated sites) and policy 9 (Retail Hierarchy and Town Centre Development).
69. Policy 6 (Development on Unallocated Sites) relates to the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area but well-related to a settlement. Paragraph 4.110 advises that when assessing whether a site is well-related, the physical and visual relationship of the site to the existing built-up area of the settlement will be a key consideration. In this regard, given its location within a largely commercial area, the site is clearly within the built-up area of this part of Stanley.
70. The policy sets out a series of criteria that proposals would need to accord with. Criteria a requires that the proposal is compatible with any existing, allocated or permitted use of adjacent land. It is considered that the use is broadly compatible with the surrounding educational, commercial and residential uses and proposed uses subject to suitable controls. This is expanded upon in the sections below.
71. Criteria b guards against coalescence and ribbon development. Given the sites location, the proposed development will not lead to either.
72. Criteria c guards against the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality. It is noted the land is undesignated in terms of recreation, ecology or heritage. In its current unused state it detracts from the character of the area and the proposal would be considered to present an opportunity to enhance the character.
73. Criteria d requires the proposals to be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement. There are no significant concerns in respect of these aspects.
74. Criteria e and f relate to highways and transport in terms of highway capacity, highway safety and sustainable transport. Being within short walking distances of residential properties and on a main bus route between Chester-le-Street and Stanley the site is considered to be in a sustainable location. The current complicated access arrangements as a result of this site and the site opposite and the proposed neighbouring development have been addressed in terms of highways safety.
75. Criteria g seeks to guard against the loss of a settlement's or neighbourhood's valued facilities. The proposals would not give rise to any direct loss of such facilities.

76. Criteria h relates to climate change, including flooding issues. The site falls outside any areas of flood risk and more technical drainage issues have been addressed.
77. Criteria i encourages the use of previously developed land. The site is clearly brownfield. In this instance, given the prominence and size of the site, additional positive weight can be attributed to the development of this brownfield site.
78. Criteria j states that where appropriate, the proposal should reflect priorities for urban regeneration. The impact of the proposals on defined towns centres will be considered through the assessment against Policy 9 (see below). Further to this a masterplan for Stanley has been recently adopted which sets out a number of recommendations for the town.

#### Ensuring the vitality of town centres

79. The site is located outside of the defined Stanley town centre as set out on the CDP Policies Map. Policy 9 (Retail Hierarchy and Town Centre Development) of the CDP sets out a retail hierarchy, Stanley is identified as a Large Town Centre. The policy seeks to protect the vitality and viability of all centres within the hierarchy, it is noted that there are a number of local centres that may also be impacted by the proposed development, discussed further below.
80. Policy 9 of the CDP identifies that proposals for main town centre uses, as defined by the NPPF, not located within a defined centre will be required to provide a sequential test. This reflects advice within the NPPF, paragraphs 86 and 87. The proposed supermarket would constitute a main town centre use. Given the sites location, over 400m from the Primary Shopping Area, it would constitute an out of centre site.

#### Sequential Assessment

81. The application is supported by a sequential justification within the planning statement which provides an assessment of potential alternative sites. A number of sites were initially discounted on the fact that they were too small. Following a review of these sites, the applicant's conclusions are accepted.
82. The remaining site that the applicant assessed in more detail is Unit 3, Clifford Road, Stanley. This site is located within the Primary Shopping Area within Stanley town centre and therefore is clearly sequentially preferable to the proposed site. The sequential statement concludes that the site is not suitable for development. Whilst the site constitutes a vacant building, the applicants state that the site is too large at c.3000sqm for the operator supermarket. The applicants also find that the site does not provide a prominent site location with good visibility which they argue is an integral part of the operator's business model. The statement raises further concerns with the access arrangements for the site for both car users and pedestrians and also raises concerns with regards to the levels of car parking provided on the site which is shared with other units. In addition, there are issues with delivery arrangements identified. Finally, the assessment concludes that the overall condition of the building is a concern for the applicants with the view that the building should be demolished in order for the operator to take up the site, which would have significant cost implications.
83. Considering the arguments that the applicant has submitted, whilst many of the concerns they raise are not insurmountable, they do highlight a series of issues that lead to the site not being suitable for this particular operator.
84. The issue over the condition of the building and the potential redevelopment has been subject to further justification, it has been identified that should the unit be redeveloped

there are issues over the ownership with the operator likely to require the freehold of the site which raises further issues.

85. Given the above it is accepted that there are a number of issues with regards to the site's suitability and also over the potential redevelopment and availability. It is therefore considered that the sequential test has been passed.

#### Retail Impact

86. Policy 9 states that for proposals for retail, in excess of 1,500 sqm (gross) convenience floorspace or 1,000 sqm (gross) comparison floorspace, proposed outside of a defined centre, and that could impact on a Large Town Centre, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG. The proposed floorspace is above the threshold required for undertaking a retail impact assessment.
87. The NPPF identifies first that the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal should be considered. The applicants have briefly stated that they have been unable to identify other planned developments within the catchment area, this being through a search of planning applications and the CDP policies map. Whilst these conclusions are accepted the applicants have failed to consider the conclusions of the recently adopted Stanley Masterplan. The masterplan identified the need for retail investment within the town centre and recommended creating opportunities for new investment from an anchor retail store. In light of this it is however accepted through the sequential assessment, the applicant was able to demonstrate that there were no suitable or available sites and therefore the proposal could not be judged to impact on any investment. The masterplan has only recently been adopted and there is further work required to provide a site suitable and available for an anchor retail store.
88. The applicant has also considered the impact of the proposal on the vitality and viability of town centres within the catchment area. The centres within the catchment area are:  
Stanley town centre  
South Moor local centre  
Burnopfield local centre  
Dipton local centre  
Annfield Plain local centre
89. The catchment area that the applicant has defined is accepted. The application also details that the Council's Retail and Town Centre Study (2017) identifies that a significant proportion of residents within the defined catchment area shop in Consett and therefore an assessment of the impact on Consett town centre has also been provided, again this approach is considered correct. The applicant concludes that the impact on the local centres identified above would not be significantly adverse. This is agreed, all of these centres predominantly act as top up shopping destinations which reflects their designation as local centres.
90. The applicants have carried analysis of the shopping patterns within Stanley town centre and the current trading patterns. They have also considered the relative health of town centre through a town centre health check.
91. Within Stanley town centre there are two main food stores that currently operate, Asda and Aldi, Iceland are also present within the centre. It is noted that Aldi opened in 2018 following the completion of the Council's Retail and Town Centre Study. The study therefore does not provide an up to date position of trading within the town centre. The

applicant has provided an assessment of the trading positions within the town centre with the Aldi now trading for a number of years. The applicants assume that the Aldi store has principally diverted from the Aldi in Consett and not significantly reduced the trading performance of the Asda store, which was found to be under performing against company benchmark in 2017.

92. In terms of impact on Stanley town centre the applicants find that the greatest impact will fall on the Aldi store. The other stores impacted are found to be Asda and Iceland with impact attributed to other convenience retailers. It is agreed that the low cost operator will compete more directly with the in centre Aldi store and this would therefore feel the greatest impact.
93. The applicant has also found that the Lidl within Consett will also be impacted as would be the other supermarkets within Consett, (Aldi, Tesco and Morrisons), albeit to a lesser extent. All of these units are located outside of Consett town centre. The Retail and Town Centre Study identified that at the time that the study was undertaken Stanley was seeing significant expenditure leakage out of the town to Consett which had a greater choice of convenience retailing. The opening of Aldi in Stanley town centre will have reduced this leakage. Further to this the applicant through their assessment has identified that further leakage to Consett will be reduced by the proposed new retail store. Ultimately through their assessment, the applicant concludes that the proposed store would not have a significant impact on Stanley town centre or any other centres in the catchment. These conclusions are agreed, given the likely clawback of trade that is leaking out to stores in Consett which would reduce the levels of impact on Stanley town centre. Given the above, the impact test is passed and the proposal is considered acceptable against Policy 9.

#### Other Economic impacts

94. Paragraph 81 of the NPPF advises that significant weight should be put on the need to support economic growth and productivity , taking into account both local business needs and wider opportunities for development. The proposal would boost the local economy in terms of the provision of local jobs which carries significant positive weight in the assessment.

#### Locational Sustainability of the Site

95. Policy 21 of the CDP requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. Policy 29 of the CDP requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities, and emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
96. Paragraph 104 of the NPPF makes clear that transport issues should be considered from the earliest stages of plan-making and development proposals. Reasons for this include so that opportunities to promote walking, cycling and public transport use are identified and pursued, and so that the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account.
97. Paragraph 105 of the NPPF states that the planning system should actively manage patterns of growth in support of these objectives and indicates that significant

development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

98. Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured appropriate opportunities to promote sustainable transport modes can be, or have been, taken up.
99. Notwithstanding the out of town centre location, the site performs well in terms of accessibility. The closest bus stops to the application site that are serviced are located at High Street, some 50m to the west of the site boundary with services travelling east to Chester-le-Street and beyond. Westward bound journeys to Stanley can be accessed via the bus stops outside the Academy some 130m from the site. There are several services that operate from these stops, typically half hourly services, running from early morning to late evening all week, and in theory, provide access to the site by means other than private vehicles. The distances to nearest bus stops are well within the 'desirable' range set out within the Institution of Highways and Transportation (CIHT) "Providing for Journeys" document and are, therefore, towards the lower end of distances that people may reasonably be expected to walk to access bus services to or from their place of work. Guidance would, therefore, suggest that these distances may encourage use of public transport by those requiring access to the site.
100. For these reasons, it is considered that the proposal performs acceptably against the requirements set out in Policy 21 of the CDP in this respect.
101. Given the location of the site close to nearby Stanley settlement cluster, walking is also considered to be a reasonable option for those requiring access to the retail unit.
102. In terms of cycle access, the site performs acceptably, with the site lying in reasonable proximity to the Sustrans National Cycle Network route (NCN7) and within a short ride of Stanley. Other local areas are accessible by bike, with many settlements within 30 minutes of the application site albeit some with more challenging terrain.
103. It therefore is clearly the case that the application site fully achieves sustainable transport policy objectives.
104. Notwithstanding the above, the applicants are proposing a Travel Plan (TP) which sets out initiatives to further improve upon accessibility. These include promotion of walking and cycling, encouraging the use of public transport and car sharing. These TP measures would, in turn, provide opportunities to encourage employees of businesses at the estate to use sustainable travel modes immediately following occupation, rather than attempting a modal shift following establishment of non-sustainable travel habits. It is noted however that the Framework Travel Plan does not meet the National Specification for Workplace Travel Plans PAS 500:2008 and, therefore, an updated Travel Plan is required. This can be secured by way of an appropriate planning condition.
105. In summary, officers consider that the development of the site would generally accord with the aims of Policy 21 of the CDP and paragraphs 104, 105 and 110 of the NPPF subject to a condition securing the updated Framework TP and its implementation going forward.

106. Objective 18 of the CDP seeks to ensure that new development is accessible, contributing to reducing the need to travel, thereby reducing the impacts of traffic and congestion on the wider environment, communities and health. In this context, the requirements of Policy 21 of the CDP requires that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity and that developments deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes.
107. Paragraph 111 of the NPPF makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Within this context, Paragraph 112 provides for a number of criteria against which new development proposals should be assessed, with Paragraph 113 indicates that all developments that will generate significant amounts of movement should be required to provide a Travel Plan (TP), and the application should be supported by a transport statement (TS) or transport assessment (TA) so that the likely impacts of the proposal can be assessed.
108. The proposals have been supported by a Transport Statement (TS). This document considers the potential impacts of the development and the issues relating to highways safety, network capacity, access and other transport related issues.
109. The application proposes a new single access off Chester Road to be served by a protected right turn, with off site works including a new protected right hand turn and no entry markings for the Petrol garage opposite. In response to concerns raised by Highways Officers in respect of the number of right turns within such a short stretch of busy road the application now also proposes the use of red paint on current hatched areas between the various right hand turn pockets and the relocation of a pedestrian island to the west of its current position.
110. The original application was also amended to include an independent road safety audit and redesign of the junction, junction capacity /modelling assessments and trip predictions to address concerns raised by the Highway Authority in respect of increased traffic movements on a section of road with conflicting traffic movements and lack of pedestrian crossing facilities.
111. The application proposes the provision of a total of 121 spaces including 6 accessible spaces and 9 parent and child spaces. This is generally line with and exceeds DCC requirements. There are 8 active EV parking spaces rather than the required amount of passive EV parking spaces and thereby some minor conflict with requirements, however as the active EV spaces are above requirements and involve rapid chargers this shortfall is accepted. Twelve cycle parking spaces are to be provided near the building for cyclists which is slightly below standard.
112. It is noted that local residents raise that the site has historically been used for parking by customers to the Local Spa and are concerned about access being restricted to the car park overnight as recommended by Durham Constabulary. This is not a material planning consideration given that the landowners have the right to prevent such parking at any time regardless of this planning application. The applicants have however confirmed that due to the need for the rapid ELV chargers to be available overnight that they do not wish for there to be restrictions to the parking area and advise that the charging company will have security measures in place to address

security. Bearing this in mind and noting that the carpark is long and narrow it is not considered that ASB as experienced at other superstores with larger car park areas would be likely to occur.

113. The Transport Statement considered trip generation from anticipated numbers associated with the uses proposed. The statement predicts that there would be 36,65 and 117 two way vehicle trips during the worst-case weekday AM, PM and weekend peak hours. It is considered that this new traffic would disperse quickly across the road network using multiple routes to lower the impact of the development to lower than 30 two way vehicle movements at every junction except the A693/A6076/Cemetery Road/Front Street roundabout to the west of the site. Further assessment was undertaken on the impacts upon this roundabout that concluded that the roundabout would continue to operate with capacity on all arms and no mitigation is required.
114. An assessment was also undertaken of the site access priority junction based on the trip figures and the results indicated that the junction would operate well under capacity during the AM and PM peak hours.
115. As the development has the potential to impact on the strategic road network, National Highways have been consulted. National Highways are satisfied with the submitted TS and the conclusions reached by the transport consultant which indicate that the proposed development would not result in severe residual cumulative impacts on the operation of the strategic highway network and that no mitigation is, therefore, required in this respect. The Highway Authority have similarly concluded that the proposals would not have a negative impact on the local road network in the vicinity of the site. The proposal, therefore, cannot reasonably be considered to give rise to a 'severe' impact within the context of the NPPF.
116. Overall, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 21 and 29 of the CDP as well as Part 9 of the NPPF.

#### Residential Amenity and pollution

117. CDP Policy 31 is the principal CDP policy in respect to amenity and pollution and in summary advises that development will be permitted where it would result in no unacceptable impacts upon the health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. CDP Policy 29 requires, amongst its advice, that development minimises impact upon nearby occupiers and contributes towards healthy neighbourhoods, considering the health impacts of development and the needs of existing and future users.
118. Part 8 of the NPPF provides advice on how development can achieve healthy, inclusive and safe places. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
119. The development is considered to be noise generating during construction and operation, potentially odour generating during operation and dust generating during construction. There is also the potential for light pollution during construction and operation.



120. A noise assessment has been submitted in support of the application which concludes that changes to noise levels at nearest noise sensitive receptors (NSRs) from the use of the car park and delivery noise, external plant and relocation of the substation during operation would be negligible. The Environmental Health Officer (EHO) agrees with this conclusion but suggested conditions to mitigate impacts. In response the applicants have agreed to limit noise from external plant at 1m from the façade and fixed building plant during the hours of 2300 to 0700h, to condition opening hours to the public as proposed and to condition limits to servicing and delivery times to opening times bar one daily newspaper delivery. The EHO has accepted that these conditions would ensure there would be negligible harm in terms of residential amenity.
121. No detail has been provided in relation to fume extraction equipment which would be required to control not only noise but odour from the commercial kitchen bakery. However Environmental Health Officers would accept that full details be agreed prior to the use commencing to ensure that odour from the site would not harm amenity and this would also ensure that the design is not intrusive in terms of visual amenity.
122. No detail has been provided in relation to lighting, to minimise light spillage and glare outside the designated area it is agreed with the EHO that a condition should ensure that details of any external lighting shall be submitted to and approved in writing by the Local planning authority prior to the development being brought into use, including restricting the hours of its operation. This should ensure that impacts from lighting are at an acceptable level for residential properties.
123. With regard to the construction phase of the development no detail has been provided in relation to any construction management plan on how noise, dust and light will be controlled to reduce impact upon nearby sensitive receptors. However the EHO is satisfied that a condition to require a Construction Management Plan would ensure that any impacts upon NSR are known and mitigated prior to any works commencing.
124. Subject to adherence to conditions recommended as part of this report, it is considered that the impact of the development on nearby residents in respect of noise, including noise from traffic and during the construction phase, would not be so significant as to justify withholding planning permission. Specific conditions are put forward by the Council's EHO's, which are designed to ensure that the amenity of local residents would be preserved.
125. In addition to the above, EHO's have considered the potential impacts of the development in respect of air quality. Air quality impacts are possible from all new development. An air quality assessment and construction management plan have been submitted in respect of this issue. In this case, the impacts are considered to be acceptable generally, however, further details are required in respect of dust. EHO's are satisfied that this can be controlled by way of a planning condition requiring an updated CMP. With such a condition imposed, it is considered that, overall, the scheme would comply with Policies 29 and 31 and Parts 12 and 15 of the NPPF.
126. It is considered, therefore, that the impacts of the development to nearby residents can be suitably mitigated to ensure there are no unacceptable levels of pollution and to protect amenity in accordance with Policies 29 and 31 of the CDP, Part 15 and in particular Paragraph 174 of the NPPF.

## Layout, Design and Impact upon the Character and Appearance of the Area

127. Part 12 of the NPPF seeks to secure high quality design, with Paragraph 126 explaining that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 seeks to ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character; and establish or maintain a strong sense of place.
128. Collectively, Policies 26, 29 and 39 of the CDP seek to secure good standards of design in new development, whilst balancing the needs of the built, natural and historic environments and making clear that all development proposals will be required to achieve well designed buildings and places. Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. In addition to the above, Policy 29 of the County Durham Plan requires all major new non-residential development to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good'.
129. The proposed long and narrow layout of the application site has dictated the layout of the building preventing the possibility of a roadside frontage. Nonetheless the frontage to the main route into Stanley has evolved positively with proposed tree planting. The design is as expected for a typical supermarket chain in terms of scale, materials and appearance. It is positive in design terms that the most visible north facing elevation and north-east corner of the building is animated by glazing and has a legible entrance.
130. Although not a zero-carbon building or a building targeting a BREEAM rating this carries little negative weight as the building has been designed to incorporate a number of sustainability measures such as the provision of photovoltaics on the roof, rapid E.V chargers on site, the use of materials that are highly rated within the BREEAM 'Green Guide' , remote operation of lighting triggered by sensors, low level overnight lighting and the operation of a recycling policy.
131. There are no landscape designations on or around the site and the Trees on site are not covered by a TPO. The removal of which will not have a negative effect on the site and a condition can ensure that the trees to be retained within the west and southern areas of the site are suitably protected during construction works. Replacement planting has been proposed around the site to soften the proposed development from where it is most visible and create a green frontage. New planting is not proposed to the south as the views of this area from the south would not alter significantly as a result of this application.
132. There would be direct views of the site from pedestrians and users of Chester Road looking south. The site would also be visible at close range from Stanley Public Footpath 37 on the western site boundary. There would also be views of the southern area of the site from Arnold Close looking north. The site is also visible from North Durham Academy looking east. Views of the site looking east are however limited due to intervening trees and buildings. Given the urban and industrial character of the site the proposed buildings and scheme of landscaping would be an improvement on the current character. The visibility of the buildings and parked cars from the above viewpoints has been taken on board and mitigated to an acceptable level with additional landscaping along the frontage . The detailed planting proposals within the site include native species hedgerow, tree planting, shrub planting , vegetated

retaining walls , wildflower and grass tree and grass planting, the delivery and management of which can be secured by way of a planning condition.

133. Subject to the aforementioned planning conditions, it is considered that the proposal would reinforce local character and sustainable design can be secured in accordance with Policies 26, 29, 39 and 40 of the CDP and Part 12 of the NPPF.

## Ecology

134. Paragraph 174 of the NPPF makes clear that planning policies and decisions should contribute to and enhance the natural and local environment. It sets out a number of ways in which this can be achieved, including by minimising impacts on and providing net gains for biodiversity.
135. Paragraph 180 of the NPPF indicates that when determining planning applications, local planning authorities should apply a number of principles, the first of which indicates that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
136. Collectively, Policies 26, 35, 41 and 43 of the CDP seek to protect and enhance the natural environment within the County, giving priority to protected species and designated landscapes, and with an emphasis on securing net gains for biodiversity. Policy 41 states that proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing assets and features and providing net gains for biodiversity including by establishing coherent ecological networks. It makes clear that measures should be appropriate, consistent with the biodiversity of the site and contribute to the resilience and coherence of local ecological networks.
137. Policy 41 of the CDP requires proposals for new development to not be permitted if significant harm to biodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Policy 43 relates to protected species and nationally and locally protected sites and similarly requires any development that would have an adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution to propose appropriate mitigation, or as a last resort compensation.
138. The application is accompanied by a Preliminary Ecological Appraisal (PEA) that identifies that the site is of low or local ecological value in terms of habitats and wildlife. The site has been subject to ecological surveys to understand baseline ecological conditions at the site. The ecological appraisal describes the site as hardstanding with some areas of semi-improved grassland and dense scrub , woodland and scattered trees and some Japanese Knotweed on site. The site possesses low quality habitat for bats with some moderate bat roost and foraging potential. The site has the potential to support a small number of locally common species of birds. The assessment recommends mitigation against the effects of the site's development on the baseline conditions, including provision of new habitat on site and adhering to ecological good practice in respect of invasive species control measures, new lighting, investigations and timings etc. These measures can be secured through the imposition of an appropriate planning conditions.
139. On the basis of the surveys undertaken and the nature of the site , the Ecology Section has raised no concerns in respect of impacts to ecology. However, the Officer notes that the applications biodiversity net gain assessment is not supported by Defra metric

trading rules . Calculations indicate a net gain for biodiversity on the site of 5.94% which falls short of the normal 10% requirements. Nonetheless given the small scale of habitats currently on site and the urban nature of the development the Ecology Officer is willing to accept this shortfall in this particular case.

140. Subject to securing an appropriate management plan and implementation of on-site compensation measures, it is considered that the impact of the proposals on the biodiversity value of the site would be suitably compensated for in accordance with CDP policies 41 and 43, and acceptable net gains for biodiversity would be achieved. The proposals would not be likely to directly affect European Protected Species.

#### Flooding and Drainage

141. Policies 35 and 36 of the CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
142. 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 a sequential test and some instances exception test are passed, informed by a site-specific flood risk assessment.
143. The submitted Flood Risk Assessment confirms that the development lies in Flood Risk Zone 1 and at the lowest potential risk from flooding. The submitted drainage strategy and hydraulic calculations have been reviewed by the Council's Drainage and Coastal Protection Team in their capacity as Lead Local Flood Authority (LLFA), who have advised the details are acceptable. A condition can ensure that the development adheres to these details.
144. In relation to foul water, it is proposed to connect to the existing sewerage network. No objections are raised by Northumbrian Water, and as a drainage strategy has been accepted by the LLFA, a condition to ensure that the approved details are adhered to would suffice in relation this issue.
145. On this basis, no objections to the development on the grounds of flood risk or drainage are raised, and the application is considered acceptable in accordance with Policies 26, 35 and 36 of the CDP and Part 14 of the NPPF.

#### Contamination and Land Stability

146. Policy 32 of the CDP requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
147. In respect of contamination, a Phase 1 and Phase 2 Geo-Environmental site investigation report has been submitted and identifies risks associated with ground gas. Environmental Health Officers have considered this report, concluding that

conditions would be required to ensure that the site is suitable for its intended use taking account of any risks arising from contamination. These conditions would relate to securing Phase 3 works (remediation works) and phase 4 (verification) reports. The Officer has also requested an informative relating to unforeseen contamination. With such conditions the site would be suitable for use and appropriately remediated in accordance with Policy 32 of the CDP and Paragraph 183 of the NPPF.

## Other Matters

148. Policy 26 of the CDP seeks to ensure that development protect and enhance public rights of way and footpaths, green infrastructure and green corridors. The proposal will impact upon the legally recorded line of Public bridleway 37 and will require a slight diversion which remains direct and convenient and would be attractively landscaped in accordance with the policy requirements. The applicants have confirmed that they intend to apply to divert the PROW under separate legislation and this will need to be done in advance of the works commencing on site.
149. In respect of the security of the PROW this is to lit with column lighting. The private areas of the site are protected from users of the PROW with fencing. Security during construction would form part of a Construction Management Plan agreed to be secured by condition.
150. The road, car park and footpaths would not be adopted as this is private commercial land.
151. Policy 27 of the CDP outlines that new commercial development should be served by a high-speed broadband connection. Part 10 of the NPPF also has similar aims. Whilst there are no details in respect of this aspect a condition can be imposed to secure that the site incorporates infrastructure for fibre broadband.
152. The proposal would result in the loss of a mobile phone Mast on the site and the operators did originally object on the grounds that there is a need to ensure the retention of mobile connectivity for emergency services, local businesses and the general public in accordance with the aims of national and local planning policy. Neither national or local policy specifically address the loss of provision, however the CDP recognises that telecommunications and access to high speed broadband are now considered essential to growing a sustainable economic future, providing opportunities to reduce carbon and the need for travel and as vital for education and individual lifestyles as well as an increasingly central part of community cohesion and resilience.
153. In this instance this is not a rural area where access to facilities is problematic. It is noted that there are 9 phone masts within 1km of the site and the 4 operators that provide 4G coverage offer either mostly very good and high average coverage for the area. It is therefore unlikely that the loss of the mast would significantly harm mobile connectivity. It is noted that the operator requested a condition that would require no removal until an alternative location has been agreed however it is understood that the landowners have now given notice to the operator to leave and they have agreed to vacate the site later this year. Therefore, it is not considered that such a condition would meet the six tests of a planning condition as it would not be considered necessary, relevant to planning or reasonable.
155. In respect of the adjacent planning application, as this is likely to have been determined by the date of Committee and Officers are minded to approve that application the cumulative impacts of both sites have been considered. In respect of

residential amenity, it remains the case that the impacts can be suitably addressed by condition to acceptable levels. It has also been borne in mind that this has been a mixed residential/commercial area for many years and that the former uses on both sites were intensive with noise and traffic impacts. In respect of Highways Safety the Highways Officer has been fully aware of both schemes in providing his advice and support.

154. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **CONCLUSION**

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155. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan, the County Durham Plan (CDP) adopted in 2020. 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 11c).
156. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. However, local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed
157. The site is an unallocated out of town centre site involving a town centre use in a built up part of Stanley. The proposal is compatible with surrounding uses and presents an opportunity to enhance the character of the area with new built form and landscaping without harming the vitality and viability of Stanley or other local centres and any Town centre regeneration. The site is in a sustainable location and a brownfield site. It has been demonstrated that the local roads can accommodate the additional traffic and the proposed access arrangements are acceptable in terms of highways safety. The proposal therefore generally accords with Policies 6,9,21, 29 and 31 of the CDP and parts 9 ,11 and 12 of the NPPF.
158. The proposal would boost the local economy in terms of the provision of local jobs which carries significant positive weight in the assessment in accordance with part 6 of the NPPF.
159. Impacts to residential amenity from noise, odour, dust and light pollution and cumulative impacts from neighbouring site can be controlled by condition in accordance with Policies 29 and 31 of the CDP, Part 15 and in particular Paragraph 127 of the NPPF.
160. An appropriate management plan and implementation of on-site compensation measures would provide suitable ecological compensation and acceptable net gains for biodiversity would be achieved in accordance with Policies 26, 35, 41 and 43 of the CDP and part 15 of the NPPF.

161. Conditions can ensure that the agreed technical details in respect of drainage, remediation and broadband are undertaken in accordance with policies 27,32,35 and 36 of the CDP and part 15 of the NPPF.
162. Whilst the line of the PROW on site would need to be diverted for the development this would be direct, convenient and attractive in accordance with Policy 26 of the CDP.
163. The proposal has generated limited public interest with two representations having been received. Concerns raised have been taken account and addressed within the report.
164. In the overall planning balance, the proposal is in general accordance with the CDP and the NPPF. The proposals are considered acceptable in this respect and, it is recommended that planning permission be granted.

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## RECOMMENDATION

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

Soft Landscape Specification		26/01/2023
Proposed GA Site Plan	1768 PL 105F	22/05/2023
Proposed Site Sections (1 of 3)	1768 PL 108	7/09/2022
Proposed Site Sections (2 of 3)	1768 PL 109	7/09/2022
Proposed Site Sections (3 of 3)	1768 PL 110	7/09/2022
Proposed GA ground Floor Plan	1768 PL 115	7/09/2022
Proposed Roof Plan	1768 PL 116	7/09/2022
Proposed Elevations	1768 PL 117	7/09/2022
Tree Root Protection Areas	7.4	7/09/2022
Tree Protection Fencing	7.5	7/09/2022
Landscape Plan	831/LA1A	26/01/2023
PV Roof Layout	SQ4S-PV-LIDL-S1029-R-B	7/09/2022
Site Location Plan	1768 PL100	7/09/2022
Minimum specification for Tree Protection		7/09/2022
Planting Schedule		26/02/2023
Solar Panel Information Booklet		7/09/2022
Air Quality Assessment		7/09/2022
BS:5837 (2012) TREE SURVEY, AIA & AM.		7/09/2022
ECOLOGICAL IMPACT ASSESSMENT ECIA, &...		7/09/2022
Noise Assessment		7/09/2022
Transport Statement and Travel Plan		7/09/2022
Flood Risk Assessment and Drainage Strategy		01/06/2023
Phase 1 Preliminary Contamination Risk Assessment		16/09/2022
Phase 2 Ground Investigation Report		4/10/2022
Further Air Quality Information		2/11/2022
Further Noise Information		2/11/2022

Air Quality Further Info Report		11/11/2022
Further Air Quality Information		18/11/2022
Response to Highways Concerns		24/02/2023
Drainage Layout Sheet 1	5015-3000 Rev P03	20/06/2023
Drainage Layout Sheet 2	5015-3001 Rev P03	20/06/2023
Construction Phase Drainage	5015-3100 Rev P02	20/06/2023
Exceedance Flow Route Sheet 1	51015-3200 Rev P01	20/06/2023
Exceedance Flow Route Sheet 2	5015-3201 Rev P01	20/06/2023
External Levels Sheet 1	5015-4000 Rev P02	20/06/2023
External Levels Sheet 2	5015-4001 Rev P02	20/06/2023
Drainage Model	5015-HJCE-00XX-CA-D-0001	28/06/2023
Flood Risk Assessment and Drainage Strategy	5015-HJCE-ZZ-XX-RP-C-3000-P05	20/06/2023
Road Access Arrangements	22-040/001 Rev B	25/04/2023
Swept Path Analysis		25/04/2023

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 1, 2, 21, 29, 31, 32, 35, 36, 39, 30, 41 and 44 of the County Durham Plan and Parts 2, 4, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.*

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
  1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  2. Details of methods and means of noise reduction/suppression.
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  5. Designation, layout and design of construction access and egress points.
  6. Details for the provision of directional signage (on and off site).
  7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.



9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.*

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

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

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

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

*Reason: In the interests of residential amenity having regards to policy 31 of the County Durham Plan.*

5. The rating level of noise from fixed building services plant on site at 1m from the façade of Nearby Sensitive Receptors, shall not exceed the background (LA90) noise level between 23:00-0700.

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

6. The hours of opening to the public shall be limited to 0700 to 2300hrs on Monday to Saturday and 1000 to 1600hrs on Sunday.

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

7. Servicing and deliveries shall take place fully in accordance with the stipulation set out below:

No servicing or deliveries, with the exception of one daily newspaper delivery, shall take place to any part of the premises between the hours of 2300 and 0700hrs

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

8. No external lighting shall be operated between the hours of 2300 and 0700 hrs.

*Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.*

9. Details of the external lighting shall be submitted to and approved in writing by the Local planning authority prior to the development hereby permitted being brought into use. The external lighting shall be erected and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

*Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.*

10. Prior to their installation details of any fume extraction equipment shall be submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details.

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

11. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

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

Replacements will be subject to the same conditions.

*Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.*

12. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010. The fencing shall be retained for the duration of the construction period.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

*Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

13. The development shall take place in accordance with the general protection and mitigation measures outlined in part 6.1 of the Ecological Impact Assessment and BNG Report.

*Reason: To safeguard protected species in accordance with Policy 43 of the County Durham Plan and part 15 of the NPPF.*

14. Prior to the commencement of the development a 30 year Biodiversity Management and Monitoring Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details.

*Reason: To ensure the provision of net gains for biodiversity in accordance with Policy 41 of the County Durham Plan and part 15 of the NPPF.*

15. The scheme shall be developed in accordance with the submitted FRA & Drainage Strategy and the approved Drainage Layout Plans dated 1/06/2023.

*Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.*

16. The unit shall not be occupied until an updated Framework Travel Plan conforming to BSI National Specification for Workplace Travel Plans (PAS500) guidance has been submitted to and agreed in writing by the Local Planning Authority. Once approved the Travel Plan must be adhered to for the lifetime of the development. Within six months of occupation Full workplace Travel Plans must be submitted to and approved in writing by the Local Planning Authority and adhered to for the lifetime of the development.

*Reason: In the interest of delivering sustainable transport objectives in accordance with Policy 21 of the County Durham Plan with Part 9 of the National Planning Policy Framework.*

17. Prior to the commencement of the development, full engineering details of the access, pedestrian refuge island and highway road marking improvement works on the A693 shall be submitted to and agreed in writing by the Local Planning Authority. The works should follow plan Road Access Arrangements 22-040/001 Rev B and shall be implemented in accordance with the agreed details prior to the development been brought into use.

*Reason: To ensure safe access in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

18. The agreed scheme of electric vehicle charging points must be installed and available for use before occupation of the unit and retained on site in perpetuity.

*Reason: In the interests of sustainable construction and in accordance with Policy 29 of the County Durham Local Plan and Part 14 of the National Planning Policy Framework.*

19. The agreed bike storage scheme must be installed and available for use before occupation of the unit and retained on site in perpetuity.

*Reason: To encourage sustainable transport modes of travel having regard to CDP Policy 21 and Part 9 of the NPPF.*

20. Prior to the commencement of construction works a Phase 3 Remediation Strategy shall be produced and where necessary include gas protection measures and method of verification.

*Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.*

21. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.*

22. The development shall be constructed with infrastructure in place to ensure that full fibre broadband connection for the unit is achievable.

*Reason: To ensure a high quality of development is achieved and to comply with the requirements of Policy 27 of the County Durham Plan and Part 10 of the NPPF.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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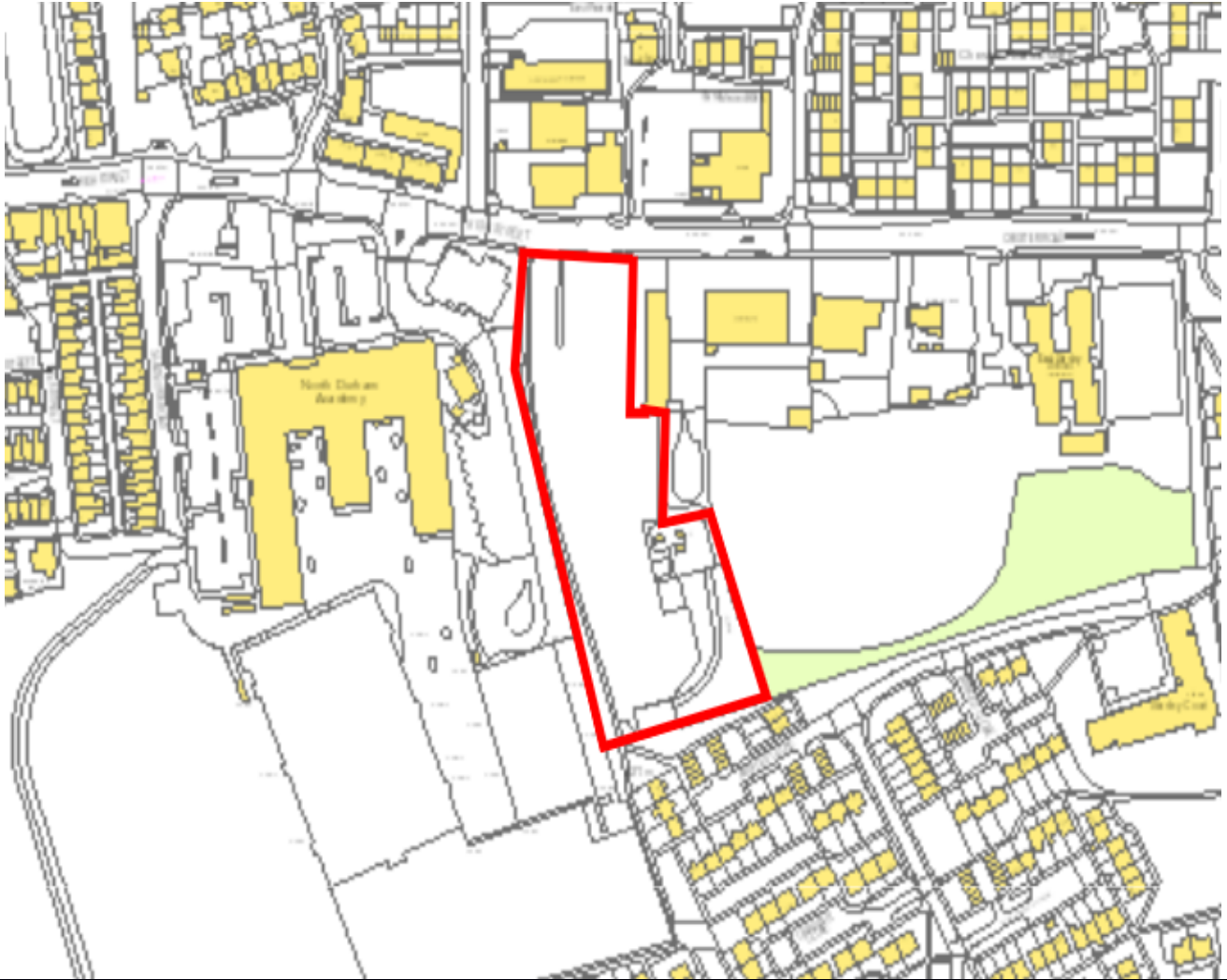
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes
- County Durham Plan 2020
- County Durham Parking and Accessibility Standards 2019
- Statutory, internal and public consultation responses



### Planning Services

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Full planning application for the construction of a new retail food store and associated car parking.

**DM/22/02627/FPA**

**Date 27 July 2023**

**Scale** Not to Scale