



## County Planning Committee

**Date** Tuesday 5 December 2023  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meeting held on 7 November 2023 (Pages 3 - 16)
5. Applications to be determined
  - a) DM/23/02330/FPA - Land West Of Low Hardwick Farm, Sedgefield TS21 2EH (Pages 17 - 40)  
Conversion of agricultural land to wetland habitats with associated engineering works and creation of temporary access bridge
  - b) DM/23/02331/FPA - Land North East Of Ricknall Grange Farm, Ricknall Lane, Preston-le-Skerne DL5 6JQ (Pages 41 - 62)  
Conversion of agricultural land to wetland habitats with associated engineering works
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Helen Bradley**  
Head of Legal and Democratic Services

County Hall  
Durham  
27 November 2023

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

Councillor G Richardson (Chair)  
Councillor A Bell (Vice-Chair)

Councillors J Atkinson, D Boyes, M Currah, J Elmer, J Higgins,  
P Jopling, C Martin, M McKeon, I Roberts, A Savory, K Shaw,  
A Simpson, S Wilson and S Zair

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## DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Tuesday 7 November 2023 at 9.30 am**

### **Present:**

**Councillor G Richardson (Chair)**

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

Councillors J Atkinson, A Bell (Vice-Chair), J Elmer, J Higgins, P Jopling, C Martin, M McKeon, I Roberts, A Savory, K Shaw, A Simpson, S Wilson and S Zair

### **Also Present:**

Councillor Liz Maddison and Councillor Pete Molloy

### **1 Apologies**

Apologies for absence were received from Councillor D Boyes and Councillor M Currah.

### **2 Substitute Members**

There were no substitute Members in attendance.

### **3 Declarations of Interest**

There were no declarations of interest.

### **4 Minutes**

The minutes of the meeting held on 3 October 2023 were agreed as a correct record and signed by the Chair.

### **5 Applications to be determined**

#### **a DM/23/01165/OUT - Site Of Former Black And Decker, Green Lane, Spennymoor, DL16 6JG**

The Committee considered a report of the Senior Planning Officer regarding an application for landscaping at Green Spine 2 pursuant to condition 3 of

DM/15/02911/RM; and outline application with all matters reserved except for access for up to 96 dwellings at Residential Plot 1 with associated open space at Green Spine 3 at the site of the former Black and Decker in Spennymoor that became known as Durham Gate.

George Spurgeon, Senior Planning Officer gave a detailed presentation on the application which included a site location plan, a recent aerial image, an aerial image from 2001, the original indicative masterplan pursuant to approval 7/2008/0488/DM diagram, the approved landscape masterplan revision N pursuant to approval DM/15/02341/VOC diagram, the indicative layout, the green spine layout, green spine 2 planting plan and various site photographs.

The Chair allowed Councillor P Jopling to seek clarification before the registered speakers spoke on whether when developing the Durham County Plan an exercise had been carried out to determine whether the Council needed employment land.

The Senior Planning Officer explained that the land had originally been allocated for employment use within the Sedgefield Borough Plan. When the Durham County Plan had been developed an employment land review had been carried out. Following this review the Inspector concluded that the land should remain allocated for employment use under Policy 2 of the Durham County Plan that implied that there was a need for this type of land.

Councillor I Geldard addressed the Committee as the current Town Mayor of Spennymoor, on behalf of Spennymoor Town Council, who were in support of the application's approval. He explained that he was also the Town Councillor for the Tudhoe Ward, which had within it the entire DurhamGate development. His own home was only 700 yards from the proposed site of the application so he hoped that he could provide a very local perspective. It was the Town Council's belief that issues around water drainage and other matters could be addressed through sensible conditions that could be placed on the applications approval. He noted that the primary reason for the recommendation to refuse was the apparent loss of employment land but the world had changed significantly since the initial consideration of DurhamGate 15 years ago, and indeed so had the immediate area.

Councillor I Geldard stated that what were cold, empty, new-builds back then now formed a warm thriving community, filled with hundreds of new Spennymoor residents that had their own resident's association who organised significant community events at DurhamGate. He noted that what was a large empty area of the town, with very few jobs, had now been significantly developed with new large units at both DurhamGate North and around the Thinford Roundabout. There were now hundreds of extra jobs in

this immediate area, in a stark contrast to when this field was deemed much more important for employment.

Employment opportunities had developed around the same strategic area, but importantly ever so slightly further away from the residential areas. He had no doubt in his mind that the development of DurhamGate over the last 15 years had been one of the most significant changes to Spennymoor, and as he looked towards its future, and indeed overall completion a good balance must be maintained. He noted that his main point was to provide a local perspective that this balance was better maintained by allowing the building of houses on the field, rather than to introduce more industrial use so close to the wonderful community that had been created. Through his local experience he did not believe that the current use of industrial land around this site would cause future residents the nuisance suggested or poor living conditions, and on balance the greater risk was to current residents of a future industrial use.

It was Councillor I Geldard's opinion that without the proposed development the site would sit empty for many years to come, which would be a massive shame for a part of the town that had become so vibrant and important. Whenever planning was considered, it was his firm belief that the voices of local residents were paramount and having heard that the DurhamGate Residents Association would much prefer a modest extension of their community onto this particular site he urged that the application be approved.

Councillor G Richardson queried why Spennymoor Town Council had not provided a response to the application through the consultation exercise.

Councillor I Geldard replied that due to administrative issues Spennymoor Town Council had only considered the application at their earliest opportunity which was at their meeting the previous week.

Councillor P Molloy addressed the Committee as a local Councillor who represented the Spennymoor Division in objection to the application. The planning application had a provision for 96 residential properties, which were to be built on land that was earmarked for employment, on the DurhamGate site located in the Tudhoe Division.

The Tudhoe Division was adjacent to the Division he represented, and like the Spennymoor Division, it was part of the Spennymoor parish, and even though he understood why the DurhamGate Residents Association had submitted a letter of support for this planning application, he considered there was a need to look at the bigger picture and see what affect the potential loss of land earmarked for employment would have on Spennymoor as a whole.

Councillor P Molloy considered that in building new housing estates on former employment sites, such as the former Thorns and Electrolux off the

B6288, Spennymoor was not able to lose any land in the parish that was designated for employment. With the close proximity of the new build commercial development site off the A167 at Thinford, which had attracted national companies such as Screwfix and Toolstation, it had shown that businesses could be attracted to this area of Spennymoor and as a result, there was a good argument to keep this land for employment and not to lose it to residential properties.

He thought that the above-mentioned earmarked employment land could be an option for existing local businesses in locations such as Tudhoe Industrial Estate that could grow out of their current business premises, but wanted to remain in the Spennymoor area, to relocate to with the result of keeping jobs in the local area and potentially create more jobs.

Councillor P Molloy referred to paragraph 52 in the report, that gave an objection from Business Durham as they considered it was an exaggeration to say that office development was not possible at DurhamGate and advised that in their experience the market for smaller office units remained strong and that demand for industrial units had outstripped supply in recent years. Paragraph 99 of the report provided a summary of the earmarked employment land in that the land had been identified for housing for several years on the applicant's Masterplan contained on their DurhamGate website, and it had not been demonstrated that all employment uses had been seriously explored. He perceived that there was a seeming lack of effort in promoting the land for employment use.

Councillor P Molloy mentioned that the report had identified other issues with the proposed development that included the proximity of the site to existing industrial units that generated noise, leaving future occupants of the proposed dwellings with unacceptable living conditions and substandard levels of residential amenity. The proposed development would likely place unreasonable restrictions upon adjacent industrial uses in the future. The proposed development was also considered to represent poor design when assessed against the County Durham Plan Building for Life Supplementary Planning Document.

He stated that it had not been demonstrated that the proposals had been designed to incorporate the management of water as an intrinsic part of the overall development, nor that pollutants from surface water runoff would be treated prior to leaving the site to avoid causing a pollution risk downstream. It was because of the above issues that the recommendation in the report was for the planning application to be refused due to it being unacceptable and in conflict with Policies 2, 29, 31, and 35 of the County Durham Plan and Parts 6, 12, 14 and 15 of the National Planning Policy Framework. In recent years there had been a lot of new residential properties built in Spennymoor, that the town could be mistaken as being just one big housing estate where people lived but worked elsewhere in the county or the wider region.

Therefore, he asked the committee to put an end to Spennymoor – becoming just one big housing estate and help safeguard the earmarked employment land for potential future employment opportunities by accepting the report's recommendation and vote to refuse the planning application.

Councillor L Maddison addressed the Committee as local Member. She advised that although she was also a Spennymoor Town Councillor she had not participated in any Town Council meeting that had discussed the development. She mentioned that she had been a Sedgefield Borough Councillor when Durham Gate had originally submitted a planning application. She noted that when the development was first considered it had promised to deliver 6,000 new jobs once Black and Decker had been lost. Unfortunately these jobs did not materialise.

She was aware that although Livin had created jobs in the area these had already been established and no new additional jobs created when they moved to Durham Gate. She believed that the expansion on to what was identified as employment land for residential dwellings was unacceptable as displays had shown gateways to shops that had not happened. She felt that Spennymoor did not have the infrastructure for extra housing meaning there would be a lack of services such as doctors, dentists and schools. She supported Councillor P Molloy and believed the Committee should consider the views of Durham County Council Officers and reject the application.

There were no objectors registered to speak against the application.

J Robison addressed the Committee on behalf of the applicant in support of the application. She stated that the Planning Authority had given four reasons for refusal on employment allocation, noise, design and drainage issues which were premature. She believed as this was an outline application the issues of noise, design and drainage could be addressed at the reserved matters stage.

She acknowledged that the site was allocated as employment land in the local plan so the proposal would be a departure from the policy allocation but there was justification that employment would not be right on this site. The site had been actively marketed for office use but there had been no interest in 15 years and this was unlikely to change. There was a view that the site should have been marketed wider for warehousing but that was never the intention within the overall DurhamGate master plan that this was to be used for industrial or warehousing as a quieter use would be required due to housing in the vicinity.

D Cook, applicant addressed the Committee in support of the application. He noted that the DurhamGate was located five miles south of Durham City that had developed into a thriving community which stood on the site of the

former Black and Decker factory on the edge of Spennymoor. He had personally been involved in the creation of DurhamGate since his early 20s, and it had become a huge passion and given him an enormous sense of pride to transform a dilapidated industrial site into an established community. The project had not been without its challenges, most notably the 2008 global financial crash, subsequent recessions, the collapse of Carillion Plc and, of course, the pandemic, which had influenced the evolution of their masterplan for the site.

He noted that since 2005 they had been delivering on a vision to grow a thriving and vibrant business and residential community, which had created 680 homes for more than 1,500 residents and a location for 40 companies that totaled over 1,300 employees and had attracted £100m of private investment. They welcomed prominent employers to DurhamGate, including housing provider LIVIN, nationally recognised training organisation Learning Curve and Breedon Group all of which played a key role in their society, locally and across the region. In addition to those, and the other businesses they had attracted to DurhamGate, they had also managed to secure and re-house Stanley Black & Decker in Spennymoor, not only to retain hundreds of jobs for the area, but also to ensure a business that had been an integral part of Spennymoor for many years continued to have a presence in County Durham.

D Cook had developed a new community venue in the form of a green parkland, which had become a hub for the area hosting a range of events, from Christmas carol concerts to summer fayres that were attended not only by DurhamGate residents, but also neighbours from the wider areas of Spennymoor. DurhamGate had become a catalyst for regeneration of the immediate area. The creation of the boulevard into DurhamGate off the A688, facilitated the redevelopment of the Thinford Roundabout and connecting junctions.

D Cook mentioned that since they had built their first homes and commercial premises on the site, the local area had seen new hospitality and leisure businesses establish themselves opposite DurhamGate. He wanted to develop this further with the next element of the regeneration of the 85-acre site with the application for 96 new homes and an extension to the green parkland that would serve and further complement the existing community.

D Cook added that although they had outline planning consent for industrial/warehouse use on the area of the site they proposed new homes, as they no longer considered this to be appropriate in such close proximity to the existing homes at DurhamGate and the new elderly care provision, which was the first new care home in 15 years in County Durham. In addition, the area proposed for the parkland extension was previously allocated for offices, hard landscaping and car parking which had been marketed without



success for almost 15 years as a result of the reduced demand for office space. This new use would better benefit the community rather than remain undeveloped. The proposals had garnered support from the community and neighboring businesses.

D Cook advised that not only did they have the support of the DurhamGate Residents Association but they were also being supported by tenant businesses, Adore Care Homes, Learning Curve and Breedon Group. They had the backing of the developer of the Thinford Retail Park and the operator of One Gym on the Thinford Roundabout. They had received support from numerous DurhamGate and other local businesses, a nursery school operator and a provider of specialist children's swimming and play services, both of which were keen to establish themselves at DurhamGate. He was pleased to have the support of Spennymoor Town Council and Mayor, Councillor Ian Geldard, who had spoken in support of the proposal. In summary, he believed that the extension of the mix of homes available, including the increased affordable housing provision of the area, was the best and most effective way to enhance the community that had been created in County Durham, that provided more homes for local people and those who were attracted from outside the area to live and work in Spennymoor.

P Thompson addressed the Committee as a representative of the DurhamGate Residents Association, a group of homeowners at the DurhamGate development in Spennymoor. He advised that members of the Association wanted to take this opportunity to show their support in favour of the current application for a further 96 residential units and associated open space at the DurhamGate site.

Members of the Association favoured the use of the land for further housing due to concerns regarding the impact on residential amenity from both a visual and noise aspect from industrial use. They believed residential use would be in keeping with the wider DurhamGate area in terms of use and visual appearance. He added that there would be the benefit of the additional open space proposed on this residential plot which would be used by residents across the wider site.

The Senior Planning Officer acknowledged that the application was only in outline but nevertheless the land was reserved for Employment land. He stated that the Committee needed to be satisfied that the outline proposals were satisfactory and not to just add conditions to it. The proposal set out the existing uses at the north that were already in operation that generated noise that would impact on future dwellings. He stated that drainage was an issue with the proposed 96 dwellings as there was not enough space to

provide SUDS for surface water. He stated that the original master plan was for this land to be used for office use which was accepted at that time. An employment land review had been undertaken with the Durham County Plan across the County and this land was deemed acceptable for employment uses that would be allocated for all industry. He confirmed that no reserved matters had been received in relation to office space that reinforced there had been inadequate marketing carried out for the site. He acknowledged that had these been carried out companies may have come forward and taken an interest in the site.

Councillor S Wilson referred to paragraph 219 that stated that the application was up for approval. He sought clarification if this was a typing error.

The Senior Planning Officer confirmed that it was a typing error and the planning application was recommended for refusal.

Councillor P Jopling mentioned that there was a lot made of the industrial use for the site and queried what class of industry would be included on this site.

The Senior Planning Officer responded that employment land covered all industries as a blanket including the former B1 (Office), B2 (General Industrial) and B8 (Storage and Distribution) unless specifically stated under the policy requirements. On this site it would be preferential to have small scale light industries with offices at the eastern side due to the residential area nearby.

Councillor P Jopling questioned whether the houses in the vicinity would be taken into consideration when looking at the type of industry that might come forward.

The Senior Planning Officer stressed that the planning processes within the County Plan would be followed and any type of industry would be assessed to highlight any impact on the residents. Residents would also be made aware of any impending industry on the land.

The Senior Planning Officer did not have any figures to hand in response to Councillor P Jopling's query on how many jobs had been created at DurhamGate so far. D Cook provided information that 1300 jobs had been created at Durham Gate at present.

Councillor S Zair asked if the figure of 96 dwellings was reduced would there still be conditions for refusal with water, drainage and noise issues. He proposed if 50 houses would raise the same debate.

The Senior Planning Officer replied that it was irrelevant on the number of proposed properties as the principal issue was the application conflicted with Policy 2 of the Durham County Plan with the loss of employment land that would remain. If the proposed number of houses were reduced that would allow areas to be allocated for SUDS on the site to help with the drainage but there was still the issue of noise.

As there were no questions for the registered speakers the Chair opened the Committee to debate on the application.

Councillor J Atkinson agreed with the Spennymoor Town Councillor and representative from the resident's association that the proposed application would be an opportunity to add 96 dwellings that would house 96 families that would bring mortgages, jobs, national insurance payments, council tax payments and economic benefits to the area. He was saddened that the land had been undeveloped for 14 years which had been a missed opportunity. He stated that advice from Business Durham was that the industrial units and offices had not materialised and queried whether they would turn up in the future. If the houses were built they would bring people to create an economy boost to the trading estate and other areas in Durham. As for the noise issues people did not open their windows at night and people dealt with the noise during the day. He was in support of the application and would vote against the officer's recommendation.

Councillor C Martin informed Councillor J Atkinson that people did open their windows at night. He challenged the two main issues firstly the employment land as he sat on the board of the business group for the Drum Industrial Estate that was similarly based near to the A1 for access and once a unit became available it was snapped up immediately.

He believed that Business Durham was right that there was a demand for employment and there was a demand for small units that Covid had not affected and were expanding. He appreciated that there was a need for housing but with employment statistically Durham was at the bottom of the league tables with increased levels of unemployment. He did appreciate that the situation was complex.

Councillor C Martin advised he would refuse the application as there was a greater need for employment land to create more jobs to improve the area. Secondly the concept of noise that the distribution centres created would require a significant barrier to prevent any impact. He received plenty of complaints for noise for the Drum Industrial Estate. He felt that a developer would not be up front with potential buyers of properties about the industrial estate being in operation 24/7 with noise from the movement outside from HGV lorries.

He **moved** to support the Officers recommendation to refuse the application as it would prevent the creation of future jobs. He added that the proposed residential dwellings would add additional restrictions to the businesses already in operation that may cause harm to their investment.

Councillor P Jopling agreed with Councillor C Martin that if the 96 dwellings were developed it would bring families that would need to travel to work as there was little employment in the area. This would affect climate change with more pollution from cars. She wanted to encourage people to come into area to find employment so there was a need for employment sites. She noted to lose the employment land would contradict Policy 2 of the County Durham Plan. She also remarked that climate change brought wetter weather that would intensify the already highlighted problematic drainage issues. She stressed that the highlighted problems would need to be addressed. Jobs were needed in Durham and more so with small industries to give local employment to local people. She **seconded** the proposal to refuse the application.

Councillor K Shaw had a couple of issues as he thought that the current site would be compatible for the future expansion to the existing housing and he could only see that the site could be used for housing. If the committee considered the current residents that were in support of the application they would rather have additional housing rather than the problems associated with commercial use.

He stressed that there was a massive housing need in County Durham that this development would help to address. Previously as the Portfolio Holder he could not address the amount of need that it got to the point where the Council was required to build their own houses again. He did not think that the Committee should refuse the developer to build houses that included bungalows that were difficult to deliver. He noted that the land had stood empty for several years and the proposal would be a good development to come forward. He moved to approve the application for the site to be used for housing.

The Senior Planning Officer pointed out that there were other housing sites that were being considered to be brought forward in the area. He gave an example of a proposed scheme to deliver over 400 houses on the former Electrolux site on Merrington Lane in Spennymoor. He could not guarantee that these housing developments would come forward as they had yet to be considered through the planning process. If the application was approved there would be no more employment land in the area but there were several housing sites to come forward for development. With regards to the noise issue for existing residential dwellings, it was noted that these dwellings had been designed so that they did not face directly onto the industrial estate.

Councillor K Shaw stressed that the Committee should look at the application set before them and not compare it to other potential future applications. He remarked that there were 11,000 people on the waiting list for affordable housing and bungalows which the proposed new houses could help address.

S Reed, Planning Development Manager supported the Senior Planning Officer's response as there were potentially several other sites that would be brought forward for housing. These sites should be developed first before using employment land that was allocated for employment. Strictly the Planning Authority could not give any weight to them all at present as they had not been through the planning process. He acknowledged that Councillor K Shaw raised a valid point that the planning application should be debated on its own merits including the benefits of housing. However this site had been allocated for employment land to create jobs for County Durham which would have an effect of the economics of the area. He explained that there was a significant history to the site where there was an initial masterplan. The housing in the vicinity was to enable the development of jobs on this site and as such the Council had waived the Section 106 monies on this basis.

S Reed noted that the development of houses would hinder jobs and would mean the applicants had failed to deliver on the promises previously made. If there were plans for heavy industry only in this area the application would be challenging to consider having regard to the residential dwellings already in the vicinity. However other employment uses could come forward. He stated that in paragraph 52 Business Durham were not in support of the development of houses. There had been two meetings with private sector businesses about the site in close proximity to this one with one company that operated close that had shown continued strong interest in employment uses.

He emphasised that both would be vibrant and positive for the area and showed that there was interest in employment land. He highlighted that the sale boards had not marketed the site.

Councillor A Bell agreed with Councillor C Martin that there were very few employment sites and residential use would promote residents to use cars and public transport to travel out of town to jobs. This site was identified as employment land in the County Plan when it was adopted in 2020. The applicant could have objected but they had not and had waited three years to bring this proposal forward. He was concerned that the section 106 monies had been waived to enable the development of offices. If the application was accepted this money would be lost and not reinvested back into the

community. He agreed with the officers' recommendations to refuse the application and market the land as employment land.

Councillor M McKeon did not think the proposal should go ahead if there were drainage and noise issues that would cause issues for future residents. A secondary issue would be in the long term as to whether this site should be used for housing or not. On one hand there was a struggle to get any interest from anyone in the site but on the other hand the local economy was in recession. This site was to be put aside strategically for industry that may come forward in the future and if so would need employment land to base themselves. There was a master plan that demonstrated this land for to be used for employment. She felt that she could also not support the application due to the drainage issues. If the application was approved it would give away employment land that in turn would chip away at the master plan. In doing so the master plan would have no bearing and businesses would lose faith and trust with the local Planning Authority.

Councillor J Atkinson reiterated that nothing had been done with the land and the houses would be of full people that would have jobs and create economic benefits. He considered the application should be approved with the drainage risk being placed with the applicant.

Councillor J Elmer considered it was important for the Committee to make plan-led decisions and take into consideration different allocations across the County. Allocations in Spennymoor had been made for residential development, for business development and for office use and this had been determined on the basis of the balance of needs in this location to create a balanced community. To approve a major residential development on land which was not allocated to residential development would throw out of balance all of the other identified land allocations and uses identified in the County Durham Plan. This site was allocated for business and there were not any others and this created a restriction on the future potential development in the area.

Councillor J Elmer wanted a community to have sufficient housing which there was or there was land to enable that to happen so people did not have to travel to job locations. If Members wanted to follow the trajectory to add houses it would then create Spennymoor as a sleeper or dormer town with no rail or bus connection making people car dependant. There would be several businesses impacted with the development of the residential dwellings like dentists, doctors and schools that would not be prepared for the expansion. The density of the site would be a concern that would impact further with noise with no space to add noise reducing mitigation. There would be too many houses compressed into the space. The application was driven by money for the developer that would be against local need.

Councillor P Jopling felt that in recent years Durham was not on the map but since she had moved to the heart of Durham development had gone from strength to strength for Durham to be taken seriously. She acknowledged that there was a housing need but there was also a need for jobs to make the

area viable. Once out of recession there would be a need for employment land to bring jobs forward. She thought that the Committee should not take the short term view in the development of residential properties but keep jobs closer that would be better for the economy in the long-term.

Councillor A Bell stressed that identified employment land was a fundamental part of the County Durham Plan that set out policies to determine planning. If the committee did not recognise that this then it was worthless and may as well be disregarded.

Upon a vote being taken it was:

**Resolved:**

That the application be **REFUSED**, for the reasons set out in the report.

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/23/02330/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Conversion of agricultural land to wetland habitats with associated engineering works and creation of temporary access bridge
<b>NAME OF APPLICANT:</b>	C/o Agent: Chris Smith, Lichfields
<b>SITE ADDRESS:</b>	Land West Of Low Hardwick Farm, Sedgefield TS21 2EH
<b>ELECTORAL DIVISION:</b>	Bishop Middleham and Cornforth
<b>CASE OFFICER:</b>	Callum Harvey Senior Planning Officer Tel. 07393 469 380 <a href="mailto:Callum.Harvey@durham.gov.uk">Callum.Harvey@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises five adjoining agricultural field parcels measuring 35 hectares (ha) in total area. The site is located approximately 1.3km west of Hardwick Hall, immediately to the west of the Hardwick Motocross track, and approximately 500m west of Low Hardwick Farm which is within the wider Motocross track site. The application site is also located approximately 560m north of the A689, and approximately 600m east of the A1(M). The site is immediately adjacent to the River Skerne.
2. The site is located within the open countryside and within an Area of Higher Landscape Value.
3. Footpath No.12 (Sedgefield Parish) runs through the northern part of the site, whilst Bridleway No.9 (Bishop Middleham Parish) runs through the northeastern part of the site. Bridleway No.3 (Sedgefield Parish) runs to the east of the site, parallel to the eastern site boundary. Bridleway No.1 (Bradbury & The Isle Parish) runs adjacent to the proposed access to the site from the southeast.
4. The nearest residential properties are 1 and 2 West View approximately 350m to the south, Low Hardwick Farm approximately 500m to the east, and Brakes Farm approximately 700m to the southeast.

5. There are a number of Local Wildlife Sites in and in close proximity to the site, as follows:
  - Island Farm Railway, which runs through the northern part of the site;
  - Carr Wood New Lake Tank Stelle, along the north eastern boundary of the site;
  - A1 Flashes, immediately west of the site;
  - Bishop Middleham Deer Park, approximately 400m north of the site;
  - Hardwick Hall, approximately 1km east of the site.
  
6. There are no designated heritage assets within the site. The nearest are as follows:
  - Bishop Middleham Conservation Area, approximately 800m to the north;
  - Middleham Castle Scheduled Monument, approximately 850m to the north;
  - Grade II\* Church of St. Michael and All Angels, and various outbuildings and ancillary structures, approximately 1km to the north;
  - Grade II\* Hardwick Park, approximately 700m to the east;
  - Hardwick Park Conservation Area, approximately 900m to the east;
  - Grade II Hardwick Hall and Hotel, approximately 1.3km to the east;
  - Grade II Sedgefield Railway Station road bridge, approximately 600m to the south.
  
7. The site is within a designated mineral safeguarding area for river sand and gravel. The site is also in the Lower Risk Coal Advice Area as identified by the Coal Authority. The majority of the site is in Flood Zone 2 as identified by the Environment Agency, with the western and northern parts of the site in Flood Zone 3b meaning they are effectively a functional floodplain. The northern part of the site is in the major groundwater vulnerability area and the southern part of the site is in the lower groundwater vulnerability area. The site is also within the Nutrient Neutrality catchment area for the Teesmouth and Cleveland Coast Special Protection Area/Ramsar.

## The Proposal

8. The proposal seeks to convert the existing agricultural land to form a wetland habitat to the east of an 800m stretch of the River Skerne. The works involve creation of 10 basins up to a depth of 0.5 metres, known as scrapes, and associated soft landscaping comprising reed planting around the edges of the basins.
  
9. The works require a temporary access bridge to be constructed across a small watercourse which runs along the eastern site boundary known as Tank Stell. The bridge would only be in place during the works to enable vehicles and material to be brought to and from the site. To the east of the bridge would be a temporary site compound and an area to permanently store a small heap of excess spoil excavated during the works, measuring up to 0.15m in height. No permanent buildings or structures are proposed.
  
10. The site is, and would, be accessed from Sandy Bank to the north of the A689, via an existing farm track passing through Low Hardwick Farm farmstead located to the southeast of the site, which leads up to the southeast corner of the site at a point located to the south of the Motocross track.
  
11. The scrapes would be created by excavators over a period of approximately eight weeks. Working hours would take place 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, with no works on Sundays and Bank Holidays. The construction of the ponds would then be followed by planting, details of which have been submitted.

12. The purpose of the application is to restore a wetland nature reserve which was lost to agricultural use of the land, with the nature reserve be managed by Durham Wildlife Trust. The scheme forms part of a wider target to create 50ha of restored or new wetland habitat and habitat improvements along 10km of the River Skerne.
13. This application is being reported to the County Planning Committee because it involves major development of more than 2ha.

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## **PLANNING HISTORY**

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14. The current site falls within the wider application sites for the following developments. Those applications related to works to the south and west of Hardwick Hall, and proposed to create water features and landscaping within part of the current application site, therefore they are relevant to the consideration of the current application as they previously approved such features within the current site:

Application no. 7/2008/0589/DM for the change of use of land for the siting of 330 static caravans together with ancillary landscape, access, drainage and engineering works. Conversion of brakes farmhouse and associated buildings to a site management centre and erection of agricultural building. This was approved in February 2009.

Application no. 7/2007/0531/DM for the change of use of the land for the siting of 330 static caravans and 48 lodges together with ancillary landscape, access, drainage and engineering works and the use of brakes farmhouse as a management centre together with the erection of an agricultural building. This application was refused January 2008.

15. The current site also falls within the wider application site for the following development. No works were proposed within the current site under that application:

Application no. 7/2007/0613/DM for the use of land for off road recreational motor sports activity and associated engineering operations (retrospective). This was refused in December 2007 and subsequent appeal dismissed in December 2009.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

16. A revised National Planning Policy Framework (NPPF) was published in September 2023. 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.
17. 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.

18. *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.
19. *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.
20. *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.
21. *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.
22. *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.
23. *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.
24. *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, site 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.
25. *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.

26. *NPPF Part 17 - Facilitating the sustainable use of minerals.* It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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

27. 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; light pollution; natural environment; neighbourhood planning; noise; public rights of way and local green space; use of planning conditions; and water quality.

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

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

##### County Durham Plan (October 2020)

28. *Policy 10 – Development in the Countryside.* States development in the countryside will not be permitted unless allowed for by specific policies in the Plan, by relevant policies within an adopted Neighbourhood Plan relating to the application site, or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and with the General Design Principles set out in Policy 10.
29. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources.* States that development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. All development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
30. *Policy 21 – Delivering Sustainable Transport.* States that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
31. *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.

32. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to advice within Supplementary Planning Documents (SPDs) 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).
33. *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.
34. *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.
35. *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.
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.

39. *Policy 42 – Internationally Designated Sites.* States that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of ‘no alternatives’ and ‘imperative reasons of overriding public interest’ as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.
40. *Policy 43 – Protected Species and Nationally and Locally Protected Sites.* States that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts. 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.
41. *Policy 44 – Historic Environment.* Requires development proposals to contribute positively to the built and historic environment. Development should 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.
42. *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.

## NEIGHBOURHOOD PLAN:

### Sedgefield Neighbourhood Plan (October 2019)

43. *Policy G1b - Development outside the Built-up Area Boundary.* States that all proposals must be in scale and keeping with the form and character of the neighbourhood area and the local landscape.
44. *Policy E1 – Visual and Spatial Impact.* States that development should enhance the visual and spatial characteristics of the plan area.
45. *Policy E4 - Listed Buildings, Scheduled Monuments and Heritage Assets.* States that proposals which affect designated and non-designated heritage assets will be considered in relation to the National Planning Policy Framework, which seeks to protect them subject to certain criteria.

*The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at:*

<http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan and Sedgefield Neighbourhood Plan)

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

46. *Highway Authority* – raise no objection advising that the application raises no concerns over road safety.
47. *Drainage & Coastal Protection (Lead Local Flood Authority)* – raise no objection.
48. *Environment Agency* – following receipt of further details relating to the construction method, raise no objection subject to a recommended condition relating to a Construction Environmental Management Plan. Informatives are also recommended relating to the conservation of protected species during the works. The Environment Agency has also highlighted the particular consideration of Great Crested Newts to the County Council when assessing and determining this application.
49. *Natural England* – has no objection advising that based on the plans submitted, it considers that the proposed development would not have significant adverse impacts on designated sites and has no objection. From the documents accompanying the consultation Natural England consider the application would not have a significant impact on the ‘best and most versatile’ (BMV) agricultural land. Advice is also provided on designated sites/landscapes and advice on other natural environment issues including protected species.

### INTERNAL CONSULTEE RESPONSES:

50. *Spatial Policy* – has raised no objection. They advise that CDP Policies 10, 26, 36 and 41 are supportive of the principle of the development which seeks to restore wetland habitat in doing so create natural floodplain. They advise that the views of specialist colleagues will assist in determining the acceptability of the proposal in terms of impact on the character of the countryside, Area of Higher Landscape Value, setting of the scheduled monument, Local Wildlife Site and flood risk.



51. *Access & Rights of Way* – do not object to the application. Officers note that the application states that Footpath No.12 (Sedgefield Parish), Bridleway No.3 (Sedgefield Parish) and Bridleway No.9 (Bishop Middleham Parish) would remain open during the works. Officers also note that the application submits that there would be no surface water flood risk toward these rights of way as a result of the works. Officers note that the construction access route would follow part of Bridleway No.1 (Bradbury & The Isle) and queried if there were any ways to ensure public safety of those using this bridleway during the construction phase. In terms of the surface of the bridleway, after construction and after the temporary access road is removed, officers would require the surface of the bridleway to be made good. In general, officers advise that these Public Rights of Way must not be blocked by any building, barriers, building material, waste or fencing either for the duration of any works or once works are complete. Any works carried out that impact or damage the surface of these paths must be made good. The safety of members of the public using these rights of way must be ensured at all times.
52. *Design and Conservation* – raise no objection. Officers advise that no designated heritage assets would be directly affected, and that those assets which include the application site within their setting will not be harmed as a result of the type of development proposed which reflects the traditional landscape. Officers consider the proposal to accord with Section 16 of the NPPF and Policy 44 of the CDP.
53. *Archaeology* – has raised no objections to the proposals. Officers advise that the submitted Written Scheme of Investigation for the requested archaeological mitigation works is fully appropriate and can be approved.
54. *Landscape* – raise no objection. Officers advise that there would be no adverse landscape or visual effects, whilst the proposals would lead to a beneficial effect on landscape character.
55. *Ecology* – raise no objection. There are no ecology concerns, the ecological survey work and reporting is sound. Any identified impacts can be mitigated for by adherence to the methods provided in section 6 Recommendations of the Preliminary Ecological Appraisal by Durham Dales Ecology.
56. *Environmental Health and Consumer Protection (Contaminated Land)* – No objection. No conditions are recommended, a standard informative is recommended.

#### **PUBLIC RESPONSES:**

57. The application has been advertised in the local press (the Northern Echo) and by site notice. Given that the site is isolated from residential properties, no neighbouring letters have been sent out in this instance.
58. No representations have been received from the public.

*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/search.do?action=simple&searchType=Application>

#### **APPLICANT'S STATEMENT:**

59. The Applicant, Discover Brightwater, is a lottery funded landscape partnership of which Durham County Council (DCC) is a full partner along with the Durham Wildlife Trust. Much of its work centres around the River Skerne to restore, reveal and celebrate the natural, built and cultural heritage of the catchment area of the River

Skerne. Durham Wildlife Trust is seeking to restore lost features in the River Skerne catchment by creating new areas of wetland and restoring canalised sections of the river channel through the Great North Fen project. It is the largest project that Durham Wildlife Trust has undertaken to date which involves 19 different projects including river habitat improvements, wetland creation, heritage, and archaeology. There is a big emphasis on involving local communities within each project to improve the existing environments for both wildlife and land users.

60. The projects that Discover Brightwater are undertaking are helping to tackle important issues and minimise the impact of wetland loss. Nearly 90% of the world's wetlands have been lost since the 1700's and those that remain are rapidly disappearing due to traditional management strategies being replaced by industrial-scale approaches.
61. Discover Brightwater has a target of creating 50ha of restored or created wetland habitat and habitat improvements to 10km of the River Skerne. Previous riparian restoration at Bafferton undertaken by Discover Brightwater has already seen a positive impact with sighting of otters in the cleaner river.
62. The Applicant has engaged positively with the Council and consultees throughout the application process and is pleased to have reached a position where there are no outstanding comments, and the application can be recommended for approval. The scheme will provide an opportunity to restore some of the historical fen habitats that were lost as a result of significant historical modification of watercourses and a lowered water table, due to mining activities and the draining of land for agriculture.

*The above is not intended to list 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/search.do?action=simple&searchType=Application>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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63. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of development, agricultural land, landscape and visual impact, amenity of neighbouring land uses, access and traffic, recreational amenity, ecology, flooding and drainage, heritage, contamination and coal mining risk, safeguarding mineral resources, and public sector equality duty.

### The Principle of the Development

64. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the Sedgfield Neighbourhood Plan (SNP) are 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. The SNP was adopted in October 2019 and covers the period 2018 to 2033. Part of the site falls within the boundary of the SNP with the other part in an area with no Neighbourhood Plan.

65. 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. In light of the recent adoption of the CDP and the SNP the Council has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). Accordingly, Paragraph 11(d) of the NPPF is not engaged.
67. The application is for the conversion of agricultural land to wetland habitats with associated engineering works and creation of temporary access bridge. The application site lies within the open countryside. The key principle policy for the determination of this application is CDP Policy 10 relating to development in the countryside.
68. CDP Policy 10 states that new development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, result in the merging or coalescence of neighbouring settlements, contribute to ribbon development, impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for, be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport, be prejudicial to highway, water or railway safety; and impact adversely upon residential or general amenity. Development must also minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
69. Policy 10 permits certain forms of development described within the Policy, and other certain forms of development as summarised in Footnote 54 of the CDP. Footnote 54 includes Green Infrastructure, which is covered by Policy 26. Policy 26 states that development will be expected to maintain and protect, and where appropriate improve, the county's green infrastructure network. The Policy also states that this will in turn help to protect and enhance the county's natural capital and ecosystem services. Paragraph 5.256 of the CDP then states that as well as public open space, 'Green Infrastructure' includes wildlife sites and river corridors.

70. The proposal seeks to create wetland habitat which would deliver demonstrable ecological benefits. Whilst the site would not be accessible to the public, the development would still be a form of Green Infrastructure. The proposal accords with CDP Policy 26, and therefore accords with CDP Policy 10. Consequently, the development is acceptable in principle in an open countryside location.
71. There are also a number of applicable environmental protection policies within the CDP, SNP and the NPPF which are considered below.

#### Agricultural Land

72. Paragraph 174 of the NPPF seeks to protect best and most versatile land. CDP Policy 14 states that development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. It goes on to state that all development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
73. The NPPF defines the 'best and most versatile agricultural land' as being Grades 1, 2, and 3a. The majority of the site is on land classed as Grade 4 by Natural England, with the northeast corner of the site and the proposed location of the temporary access and compound on land classed a Grade 3b. Natural England define Grade 4 as land of 'poor' agricultural value, whilst Grade 3b is defined as being of 'moderate' agricultural value. The site does not fall within the 'best and most versatile agricultural land' as defined by the NPPF.
74. Natural England has been consulted and has no concerns.
75. Although the development would remove a portion of land from arable use, it is noted that the site is not valued agricultural land as defined by the NPPF, whilst it is considered that the benefits of the development as set out above would outweigh the loss.
76. In respect of soils, some excavated spoil would be used around the edges of the basins with seed planting. It is noted that excess soils would be stored on site through the formation of a mound adjacent to the site compound, measuring up to 0.15m in height, which would remain in place once the works have completed. Stripping, storage, handling and spreading of soil would be in accordance with current best practices.
77. The proposed would therefore not conflict with CDP Policy 14 or Part 15 of the NPPF in this respect.

#### Landscape and Visual Impact

78. Paragraph 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
79. CDP Policy 10 states that development in the countryside must not give rise to unacceptable harm intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for and must not result in the merging or coalescence of neighbouring settlements.

80. CDP Policy 29 requires all development proposals to achieve well designed buildings and places having regard to advice within Supplementary Planning Documents (SPDs) 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).
81. Policy 39 of the CDP states that 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, and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
82. CDP Policy 40 states that proposals for new development will not be permitted where they would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Where development would involve the loss of ancient or veteran trees it will be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Proposals for new development will not be permitted that would result in the loss of hedges of high landscape, heritage, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will not be permitted that would result in the loss of, or damage to, woodland unless the benefits of the proposal clearly outweigh the impact and suitable replacement woodland planting, either within or beyond the site boundary, can be undertaken.
83. Policy Gb1 of the Sedgefield Neighbourhood Plan states that all proposals must be in scale and keeping with the form and character of the neighbourhood area and the local landscape. Policy E1 of the Neighbourhood Plan states that development should enhance the visual and spatial characteristics of the plan area.
84. The application site is located in the open countryside and an Area of Higher Landscape Value. The site is surrounded to the west by the A1(M) and adjacent tree line, to the north by a footpath and adjacent tree line, to the east by a motocross site and adjacent tree line, to the south by further tree lines. Officers are mindful that the A1(M) to the west and the footpath to the north are located upon raised embankments, however the well-established adjacent tree lines provide a notable degree of screening when looking toward the site.
85. Notwithstanding the degree of screening that the site benefits from, officers are mindful of the scope and nature of the works, and that the construction period would last approximately eight weeks. No permanent structures or hardstanding is proposed. Whilst an access bridge and a site compound are proposed at the eastern part of the site, these are to be in place during the construction period only and are therefore temporary in nature. The removal of these features of the development upon completion of the works can be secured by condition.
86. There are no works planned that should interfere with trees on site, however tree protection measures are also set out in the submitted Construction Management Plan and this document would be secured by condition.
87. Planting details are set out in the submitted Materials and Workmanship Specification document which would be secured by condition.

88. Landscape Officers advise that there would be no adverse landscape or visual effects, and that the proposal would in fact have a beneficial effect on landscape character.
89. Subject to recommended conditions as described above, the proposal would enhance the appearance of the site and the amenity of the wider landscape. The proposal would therefore not conflict with Policies G1b and E1 of the Sedgefield Neighbourhood Plan, with Policies 10, 29 and 39 of the County Durham Plan, and Part 15 of the NPPF.

#### Amenity of neighbouring land uses

90. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 186 of the NPPF advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
91. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
92. The site is surrounded by agricultural fields, with a Motocross track located to the east. The nearest residential properties are Low Hardwick Farm approximately 500m to the east, and another property approximately 700m to the southeast. Dust, noise and lighting control measures are set out in the submitted Construction Management Plan and this document would be secured by condition. Such measures include erecting temporary fencing, careful spoil laying and using wheel wash facilities to mitigate dust; and ensuring plant and machinery are in good condition to avoid unnecessary noise emissions.
93. Given the nature of the development and short duration of the proposed works, it is considered that the proposal would not have an adverse impact on the amenity or use of the neighbouring land uses, and would not have an unacceptable adverse impact on the amenity of occupiers of the nearest dwellings. The proposal would therefore not conflict with Policies 10 and 31 of the County Durham Plan and Part 15 of the NPPF.

## Access and Traffic

94. Paragraph 110 of the NPPF states 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. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans. Policy 21 also outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity.
95. During the construction and subsequent planting period, the site would use a temporary vehicular access via a farm to the southeast, onto Sandy Bank located to the north of the A689.
96. Highways officers have considered the proposal and advise that it raises no concerns over road safety and no conditions are recommended. The development would not lead to a highway safety impact and would not conflict with Policies 10 and 21 of the County Durham Plan and Part 9 of the NPPF.

## Recreational Amenity

97. Part 8 of the NPPF seeks to promote healthy communities with a key reference being towards the protection and enhancement of public rights of way and access. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.
98. The Access and Rights of Way officer has been consulted and notes that the application submits that Footpath No.12 (Sedgefield Parish), Bridleway No.3 (Sedgefield Parish) and Bridleway No.9 (Bishop Middleham Parish) would remain open during the works. They also note that the application submits that there would be no surface water flood risk toward these rights of way as a result of the works.
99. The Access and Rights of Way officer also notes that the construction access route would follow part of the Bridleway No.1 (Bradbury & The Isle Parish), and requested further details be secured by conditions which set out whether a banksman would be on site to guide users of the right of way when vehicles are moving nearby. These details have subsequently been submitted under an amended Construction Method Plan.
100. The proposed development would not deteriorate nor lead to a loss of the identified Public Rights of Way. The proposals would not conflict with CDP Policies 10 and 26 of the County Durham Plan and Part 8 of the NPPF. A standard informative protecting rights of way throughout the proposed works is recommended. The amended Construction Method Plan would also be an approved document and would ensure that any conflict between construction vehicles and the public on Bridleway No.1 would be adequately managed.

101. Paragraph 180 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 43 states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts.
102. The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European Protected Species to apply three tests contained in the Regulations in order to determine whether a licence is likely to be granted. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species must be maintained. Brexit does not change the Council's responsibilities under the law.
103. There are a number of Local Wildlife Sites in close proximity to the site, as follows:
- Island Farm Railway, which runs through the northern part of the site;
  - Carr Wood New Lake Tank Stelle, along the north eastern boundary of the site;
  - A1 Flashes, immediately west of the site;
  - Bishop Middleham Deer Park, approximately 400m north of the site;
  - Hardwick Hall, approximately 1km east of the site.
104. A Preliminary Ecological Appraisal has been submitted with the application, which concludes that there would be potential impacts on breeding birds, barn owl and otter, and recommends suitable mitigation measures. Measures are also recommended in respect of invasive/non-native species plants. In addition, a Water Vole and an Otter Survey have been submitted which conclude that Water Voles are unlikely to be impacted by the works, whilst mitigation measures are recommended in respect of otter.
105. The proposal seeks to create new wetland habitat in close proximity to the River Skerne. The application is supported by a Biodiversity Net Gain Metric Report which submits that the proposal would deliver a greater than 300% biodiversity net gain.
106. Ecology officers have no objection subject to the mitigation measures set out in the submitted Preliminary Ecological Appraisal being followed during the works. No concerns are raised in respect of impacts upon the Local Wildlife Sites.
107. In updated comments, the Ecology officers have recommended a planning condition to secure a Biodiversity Management Plan for the newly created open water and ditch habitats, as it is deemed necessary to ensure that the features created on site deliver the expected biodiversity enhancement over a 30 year period. Officers recommend



that in this particular instance, due to the scale and nature of the works, the plan is required to be submitted within six months of commencement.

108. Natural England has no objection advising that it considers that the proposed development would not have significant adverse impacts on designated sites.
109. The Environment Agency initially raised queries regarding insufficient survey work regarding water vole and otters, which are protected species. A Water Vole and an Otter Survey were subsequently submitted. Having considered the additional information the Environment Agency consider advise that it has no objection subject to a condition securing the submission and written approval of a Construction Environmental Management Plan, prior to works commencing. Informatives relating to updating the Construction Environmental Management Plan and relating to the Environment Agency's permits are also recommended in the interest of conserving protected species.
110. The Environment Agency has highlighted the consideration of Great Crested Newts when assessing and determining this application. The Council's Ecology officer has reviewed the relevant submitted details and advised that no further information is required, and subsequently have no objection.
111. The Council's Ecology officer considers that in light of the survey information submitted as part of the application, Ecology officers are comfortable that risks to Great Crested Newts are unlikely, and that no further work is required. The proposal would not interfere with the European Protected Species therefore a mitigation licence and derogation tests are not required for the proposed works.
112. The site is also within the Nutrient Neutrality catchment area for the Teesmouth and Cleveland Coast Special Protection Area/Ramsar. However, officers are mindful that the proposal would not lead to additional burden on the foul drainage network in the area. No consultees have raised any concerns in this respect.
113. Subject to the aforementioned conditions it is considered that the construction phase would not have an adverse impact on protected species, whilst when complete the proposal would deliver significant biodiversity enhancement. The development would not conflict with Policies 10, 41, 42 and 43 of County Durham Plan and Part 15 of the NPPF.

#### Flooding and Drainage

114. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.
115. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable

drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.

116. CDP 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. 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
117. The majority of the site is in Flood Zone 2 as identified by the Environment Agency, with the western and northern parts of the site in Flood Zone 3b meaning they are effectively a functional floodplain. The proposal seeks to create wetland habitat adjacent to a watercourse. It is considered that proposals of this scale and nature meet the exception test to requiring a Sequential Test, by delivering notable biodiversity benefits whilst also not increasing flood risk.
118. A Flood Risk Assessment (FRA) has been submitted in support of the application. The FRA considers potential risks in respect of fluvial, pluvial, tidal and ground water flooding, as well as flood risk from artificial water bodies. The assessment concludes that tidal flood risk is not applicable, whilst the development would not lead to an adverse impact in respect of the remaining four sources.
119. Drainage and Coastal Protection officers have no objection to the proposed works and no conditions are recommended. The Environment Agency has raised no concerns in respect of flood risk.
120. The proposed development would not lead to an increased surface water flood risk on adjacent land and would not conflict with Policies 10 and 35 of the County Durham Plan and Part 14 of the NPPF.

## Heritage

121. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.
122. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset.

123. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.
124. Policy E4 of the Sedgefield Neighbourhood Plan states that proposals which affect designated and non-designated heritage assets will be considered in relation to the National Planning Policy Framework, which seeks to protect them subject to certain criteria.
125. The nearest designated heritage assets are as follows:
- Bishop Middleham Conservation Area, approximately 800m to the north;
  - Middleham Castle Scheduled Monument, approximately 850m to the north;
  - Grade II\* Church of St. Michael and All Angels, and various outbuildings and ancillary structures, approximately 1km to the north;
  - Grade II\* Hardwick Park, approximately 700m to the east;
  - Hardwick Park Conservation Area, approximately 900m to the east;
  - Grade II Hardwick Hall and Hotel, approximately 1.3km to the east;
  - Grade II Sedgefield Railway Station road bridge, approximately 600m to the south.
126. Views between these assets and the application site are screened by trees and hedgerows. The Design and Conservation officer has been consulted and has no concerns. No conditions are recommended.
127. A Written Scheme of Investigation for Archaeological Monitoring (WSI) has been submitted with the application. The Council's Archaeology officers consider that the WSI is appropriate and can be approved. No conditions are recommended.
128. It is considered that the proposal would cause no harm to heritage assets or archaeological remains in accordance with CDP Policy 44 and Part 16 of the NPPF and the Listed Building Act.

#### Contamination and Coal Mining Risk

129. Part 15 of the NPPF (Paragraphs 120, 174, 183 and 184) requires the planning system to consider remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate. Noting that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 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.
130. The site lies within a Coalfield Development Low Risk Area. A Coal Mining Risk Assessment is therefore not required. Should planning permission be granted then the Coal Authority's Standing Advice would be included within the decision notice as an informative note to the applicant in the interests of public health and safety.
131. Environmental Health and Consumer Protection (Contaminated Land) officers have considered the proposals and raise no objection, only recommending an informative advising the applicant on if unforeseen contamination is encountered. No contamination report has been required to be submitted as part of the application.

132. The proposal would not likely lead to a contamination risk, or lead to a risk of land instability. The proposal would not conflict with CDP Policy 32 of the CDP and with Part 15 of the NPPF in this respect.

### Safeguarding Mineral Resources

133. The site lies within a Mineral Safeguarding Area (MSA) for river sand and gravel. CDP Policy 56 advises 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 or which will sterilise an identified 'relic' natural building and roofing stone quarry as shown on Map C of the policies map document unless certain criteria apply. One such criteria, Criteria c), includes non-minerals development of a temporary nature that does not inhibit extraction within the timescale the mineral is likely to be needed.
134. Given the scope and nature of the works a Mineral Assessment has not been submitted as part of this application. It is considered that the scope and nature of the works would not sterilise the below ground mineral resource at this site, in accordance with criteria c) of Policy 56 of the CDP. It is therefore considered that the proposed development would not conflict with CDP Policy 56 and Part 17 of the NPPF.

### *Public Sector Equality Duty*

135. 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.
136. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

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## **CONCLUSION**

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137. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
138. The proposal seeks to create wetland habitat which would deliver significant Biodiversity Net Gain, and would enhance the visual amenity of the site within the wider landscape.
139. The development has been assessed against relevant development plan policies and material considerations and, subject to conditions where appropriate, the impacts are considered to be acceptable.
140. The proposed development has generated no public interest.
141. The proposed development is considered to broadly accord with the relevant policies of the County Durham Plan, Sedgefield Neighbourhood Plan and relevant sections of the NPPF.

## RECOMMENDATION

142. 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 plans and documents:

Plan	Drawing No.	Date Received
Site Location Plan	01-01	02/08/23
Scrape Detail - Phase 1	DR-C-402 Rev P2	02/08/23
Site Plan and General Arrangement - Phase 1	DR-C-401 Rev P3	02/08/23
Bishops Fen Construction Management Plan, by Lichfields dated 08.09.2023	N/A	08/09/23
Preliminary Ecological Appraisal (Update), by Durham Dales Ecology dated 4 <sup>th</sup> October 2022	BishopsFen_UPEA_v1.1	02/08/23
Otter and Water vole Survey Report: Presence/Absence Survey, by Kevin O'Hara Ecology dated June 2020	N/A	04/10/23
Materials and Workmanship Specification: Bishop's Fen Revision P2, by ARUP dated 22 <sup>nd</sup> June 2022	274134-ARP-SK-1-BF-SP-C-001	02/08/23

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with, Policies 10, 21, 26, 29, 31, 32, 35, 39, 40, 41, 42, 43, 44 and 56 of the County Durham Plan, Policies Gb1 and E1 of the Sedgfield Neighbourhood Plan, and Parts 9, 12, 14 and 15 of the National Planning Policy Framework.*

3. No development shall take place until the Construction Management Plan / Construction Environmental Plan (CEMP) has been updated and submitted to the Local Planning Authority for consideration in consultation with the Environment Agency and written approval. The updated CEMP shall include:
  - a. Biodiversity Plan which shall detail biosecurity and invasive non-native species (INNS) management best practice, utilising check-clean-dry procedures across the site for plant, materials and personnel. The plan shall also identify specific actions and mitigation measures for known INNS on or close to the site (Parrot Feather).
  - b. Vegetation Clearance Plan.
  - c. Species Protection Plans relating to Otter (*Lutra lutra*) and Water Vole (*Arvicola amphibius*).

The approved CEMP shall be adhered to thereafter; a copy of the CEMP shall be kept on site during works for contractors to refer to.

*Reason: To prevent the spread of invasive non-native species listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), in accordance with Policies 41 and 43 of the County Durham Plan and Paragraph 109 of the National Planning Policy Framework.*

4. The hereby approved temporary access bridge and site compound, as identified on the hereby approved Site Plan, shall be removed from the site as soon as reasonably practicable following the completion of the works. The land on which they would be located shall then be made good.

*Reason: In the interests of the appearance of the site and the amenity of the wider landscape, in accordance with, with Policies 10, 29 and 39 of the County Durham Plan, Policies G1b and E1 of the Sedgefield Neighbourhood Plan, and with the National Planning Policy Framework*

5. Within six months of commencement of the development a Biodiversity Management and Monitoring Plan (BMMP) for the open water and ditch habitats, covering a 30 year period from the date the habitats were created, shall be submitted to the Local Planning Authority for approval in writing. Monitoring reports should be provided to the Local Planning Authority. The BMMP should include any proposed ecological enhancements and planting management.

*Reason: In order to deliver Biodiversity Net Gain in accordance County Durham Plan Policy 41 and Part 15 of the National Planning Policy Framework*

6. The development shall be carried out in accordance with the Avoidance and Mitigation, Compensation and Enhancement measures set out in Section 6 of the hereby approved 'Preliminary Ecological Appraisal (Update) Reference BishopsFen\_UPEA\_v1.1' dated 4<sup>th</sup> October 2022 by Durham Dales Ecology.

*Reason: In the interest of biodiversity in accordance with Policies 10, 26 and 43 of the County Durham Plan and the National Planning Policy Framework.*

7. The hereby approved planting regime, as detailed under Section 4.1 of the hereby approved 'Materials and Workmanship Specification' document, shall be implemented within six months of completion of the hereby approved excavation works.

*Reason: In the interests of the visual amenity of the area and to comply with County Durham Plan Policies 10, 29, 39, 40 and 41 and Parts 12 and 15 of the National Planning Policy Framework.*

8. Working hours would take place 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, with no works on Sundays and Bank Holidays

*Reason: In the interest of the amenity of occupiers of neighbouring dwellings, in accordance with Policy 31 of the County Durham Plan and the National Planning Policy Framework and Part 15 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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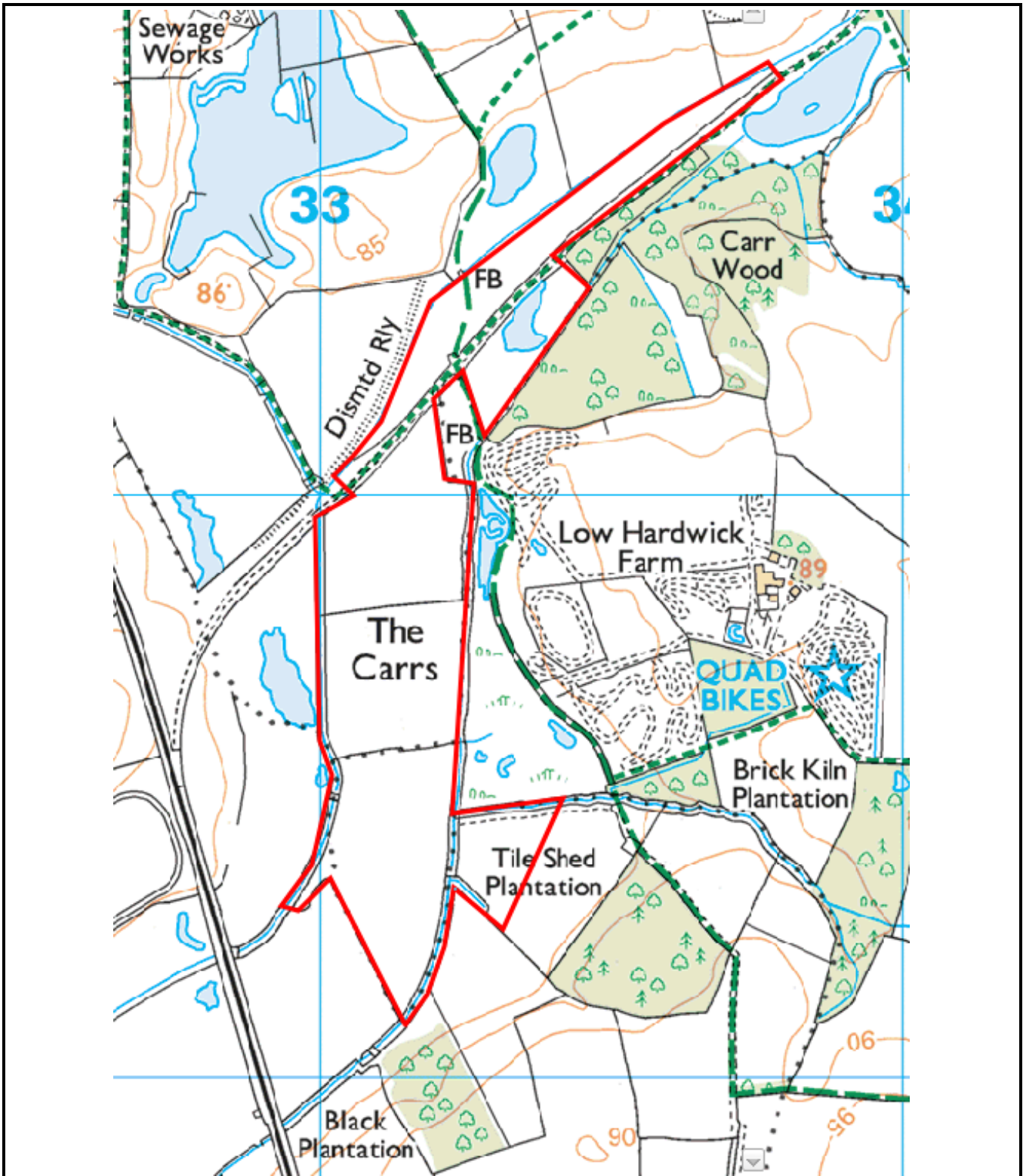
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. Whilst agreement has not been reached on the principle of development discussions have enabled agreement on a number of topics to allow for focus on the outstanding issues.

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## **BACKGROUND PAPERS**

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- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- Statutory, internal and public consultation responses
- The National Planning Policy Framework
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
- Sedgefield Neighbourhood Plan (2019)



**Planning Services**

**DM/23/02330/FPA**

Conversion of agricultural land to wetland habitats with associated engineering works and creation of temporary access bridge, Land West Of Low Hardwick Farm, Sedgefield TS21 2EH

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**Date** November 2023

**Scale** NTS



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/23/02331/FPA
<b>SITE LOCATION</b>	Land North East Of Ricknall Grange Farm, Ricknall Lane, Preston-le-Skerne DL5 6JQ
<b>FULL APPLICATION DESCRIPTION:</b>	Conversion of agricultural land to wetland habitats with associated engineering works
<b>NAME OF APPLICANT:</b>	C/o agent: Mr Chris Smith, Lichfields
<b>ADDRESS:</b>	Land North East Of Ricknall Grange Farm, Ricknall Lane, Preston-le-Skerne, DL5 6JQ
<b>ELECTORAL DIVISION:</b>	Sedgefield
<b>CASE OFFICER:</b>	Callum Harvey Senior Planning Officer Telephone: 07393 469 380 <a href="mailto:Callum.Harvey@durham.gov.uk">Callum.Harvey@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises two adjoining agricultural field parcels measuring 29 hectares in area. The site is located immediately east of the A1(M), with the River Skerne surrounding the site immediately to the north, east and south. The East Coast Mainline passes adjacent to the southern site boundary and heads further northeast away from the site.
2. The site is located within the open countryside and within an Area of Higher Landscape Value.
3. Footpath No.32 (Great Aycliffe Parish) runs across the proposed access route to the site where it passes under the A1(M), approximately 700m to the southwest of the site boundary.
4. The nearest residential properties are at Ricknall Grange approximately 350m to the southwest, at Preston East Farm approximately 500m to the southwest, and at Swan Carr Farm approximately 1km to the northeast.
5. A designated Site of Special Scientific Interest (SSSI) known as Railway Stell West is located alongside the East Coast Mainline, approximately 150m east of the site at the closest point.

6. There are no designated heritage assets within the site. The nearest are as follows:
  - Mordon Conservation Area, approximately 1,800m to the northeast; and
  - Preston-le-Skerne Deserted Village Scheduled Monument, approximately 550m to the southwest.
7. The site is within a designated mineral safeguarding area for river sand and gravel. The site is in Flood Zone 3b as identified by the Environment Agency, meaning it is effectively a functional floodplain. The site is in the major groundwater vulnerability area. The site is also within the Nutrient Neutrality catchment area for the Teesmouth and Cleveland Coast Special Protection Area/Ramsar.

## The Proposals

8. The proposal seeks to convert the existing agricultural land to form a wetland habitat to the west of a stretch of the River Skerne. The works involve creation of a range of basins up to a depth of 0.5 metres, and associated soft landscaping comprising reed planting around the edges of the basins. Some excavated spoil would be used around the edges of the basins with seed planting.
9. The works require a temporary access track from the edge of the site into the site, and site compound during the works. Excess spoil from the excavations would be stored on a small heap up to 0.18m in height would be located at the northwestern edge of the site, which would be left as a permanent feature. No permanent buildings or structures are proposed.
10. The site is, and would, be accessed from via a private track from Ricknall Lane approximately 2km to the southwest, passing a dwelling known as Ricknall Lane End and another at a farmstead known as Ricknall Grange.
11. The scrapes would be created by excavators over a period of approximately eight weeks. Working hours would take place 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, with no works on Sundays and Bank Holidays. The construction of the ponds would then be followed by planting, details of which have been submitted.
12. The purpose of the application is to restore a wetland nature reserve which was lost to agricultural use of the land, with the nature reserve be managed by Durham Wildlife Trust. The scheme forms part of a wider target to create 50ha of restored or new wetland habitat and habitat improvements along 10km of the River Skerne.
13. This application is being reported to the County Planning Committee because it involves major development of more than 2ha.

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## **PLANNING HISTORY**

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14. The site has been subject to only one previous application, which was withdrawn in January 2016 on the advice of officers due to a number of technical matters affecting that proposal.

This being Application no. DM/14/01210/FPA for The Isles Wind Farm comprising 24 turbines (7 with a maximum tip height of up to 126.5m on land to the north west of the A1(M) and north of Great Isle Farm, 13 with a maximum tip height of up to 101m and 4 with a maximum tip height of up to 115m on land between Mordon and Preston-le-Skerne), 1 permanent 80m high anemometer mast, and associated infrastructure

including control building and substation compound, access roads and related engineering works, on land near Mordon, Bradbury and Preston-le-Skerne.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

15. The following elements of the National Planning Policy Framework (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 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.
19. *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.
20. *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.
21. *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.
22. *NPPF Part 15 – Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, site 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.

23. *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.
24. *NPPF Part 17 - Facilitating the sustainable use of minerals.* It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

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

25. 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; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

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

County Durham Plan October (2020)

26. *Policy 10 – Development in the Countryside.* States development in the countryside will not be permitted unless allowed for by specific policies in the Plan, by relevant policies within an adopted Neighbourhood Plan relating to the application site, or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and with the General Design Principles set out in Policy 10.
27. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources.* States that development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits.
28. *Policy 21 – Delivering Sustainable Transport.* States that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be

safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.

29. *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.
30. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to advice within Supplementary Planning Documents (SPDs) 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).
31. *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.
32. *Policy 32 – Despoiled, Degraded, Derelict, Contaminated and Unstable Land.* States [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
33. *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.
34. *Policy 39 – Landscape.* States that 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 and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
35. *Policy 40 – Trees, Woodlands and Hedges.* States that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and

integrate them fully into the design having regard to their future management requirements and growth potential.

36. *Policy 41 – Biodiversity and Geodiversity.* States that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
37. *Policy 42 – Internationally Designated Sites.* States that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.
38. *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.
39. *Policy 44 – Historic Environment.* Requires development proposals to contribute positively to the built and historic environment. Development should 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.
40. *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.

#### **NEIGHBOURHOOD PLAN:**

Great Aycliffe Neighbourhood Plan (July 2017)

41. *Policy GANP CH1 – Landscape Character and Townscape.* States that all developments must respect the landscape character of the parish and its settlements, as defined within the Great Aycliffe Heritage and Character Assessment (December 2015), and incorporate features which contribute to the conservation, enhancement or restoration of local features.
42. *Policy GANP CH4 – Protecting Heritage Assets* States that Proposals affecting Listed Buildings, Scheduled Monuments or the Conservation Area of Aycliffe Village and their settings must preserve and, wherever possible, seek to enhance their significance. New developments should seek to avoid any significant adverse impacts on Heritage Assets and the Conservation Area of Aycliffe Village whether by nature of their height, scale or bulk, position, or by poor design, or by affecting the settings in a way that would compromise these assets.

*The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at:*

<http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan and Great Aycliffe Neighbourhood Plan)

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

43. *Highway Authority* – raise no objection advising that the application raises no concerns over road safety.
44. *Drainage & Coastal Protection (Lead Local Flood Authority)* – raise no objection.
45. *Environment Agency* - following receipt of further details relating to the construction method, raise no objection subject to a recommended condition relating to a Construction Environmental Management Plan. Informatives are also recommended relating to the conservation of protected species during the works. The Environment Agency have also highlighted the particular consideration of Great Crested Newts to the County Council when assessing and determining this application.

#### **INTERNAL CONSULTEE RESPONSES:**

46. *Spatial Policy* - They advise that CDP Policies 10, 26, 36 and 41 are supportive of the principle of the development which seeks to restore wetland habitat in doing so create natural floodplain. They advise that the views of specialist colleagues will assist in determining the acceptability of the proposal in terms of impact on the character of the countryside, Area of Higher Landscape Value, setting of the scheduled monument, Local Wildlife Site and flood risk.
47. *Access & Rights of Way* – do not object to this application, they note that there are no rights of way within the site.

48. *Design and Conservation* – raise no objection. Officers advise that no designated heritage assets would be directly affected, and that those assets which include the application site within their setting will not be harmed as a result of the type of development proposed which reflects the traditional landscape. Officers consider the proposal to accord with Section 16 of the NPPF and Policy 44 of the CDP.
49. *Archaeology* - has raised no objections to the proposals. Officers advise that the submitted Written Scheme of Investigation for the requested archaeological mitigation works is fully appropriate and can be approved.
50. *Landscape* – raise no objection. Officers advise that there would be no adverse landscape or visual effects, whilst the proposals would lead to a beneficial effect on landscape character. Concerns were initially raised with the height of the spoil heap in the northwestern corner of the site, however those concerns were resolved upon receipt of further information
51. *Ecology* – raise no objection. There are no ecology concerns, the ecological survey work and reporting is sound. Any identified impacts can be mitigated for by adherence to the methods provided in section 6 Summary of the Preliminary Ecological Appraisal by ARUP.
52. *Environmental Health and Consumer Protection (Contaminated Land)* - No objection. No conditions are recommended, a standard informative is recommended.

#### **PUBLIC RESPONSES:**

53. The application has been advertised in the local press (the Northern Echo) and by site notice. Given that the site is isolated from residential properties, no neighbouring letters have been sent out in this instance.
54. No representations have been received from the public.

*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/search.do?action=simple&searchType=Application>*

#### **APPLICANT'S STATEMENT:**

55. The Applicant, Discover Brightwater, is a lottery funded landscape partnership of which Durham County Council (DCC) is a full partner along with the Durham Wildlife Trust. Much of its work centres around the River Skerne to restore, reveal and celebrate the natural, built and cultural heritage of the catchment area of the River Skerne. Durham Wildlife Trust is seeking to restore lost features in the River Skerne catchment by creating new areas of wetland and restoring canalised sections of the river channel through the Great North Fen project. It is the largest project that Durham Wildlife Trust has undertaken to date which involves 19 different projects including river habitat improvements, wetland creation, heritage, and archaeology. There is a big emphasis on involving local communities within each project to improve the existing environments for both wildlife and land users.
56. The projects that Discover Brightwater are undertaking are helping to tackle important issues and minimise the impact of wetland loss. Nearly 90% of the world's wetlands have been lost since the 1700's and those that remain are rapidly disappearing due to traditional management strategies being replaced by industrial-scale approaches.



57. Discover Brightwater has a target of creating 50ha of restored or created wetland habitat and habitat improvements to 10km of the River Skerne. Previous riparian restoration at Bafferton undertaken by Discover Brightwater has already seen a positive impact with sighting of otters in the cleaner river.
58. The Applicant has engaged positively with the Council and consultees throughout the application process and is pleased to have reached a position where there are no outstanding comments, and the application can be recommended for approval. The scheme will provide an opportunity to restore some of the historical fen habitats that were lost as a result of significant historical modification of watercourses and a lowered water table, due to mining activities and the draining of land for agriculture.

*The above is not intended to list 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/search.do?action=simple&searchType=Application>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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59. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of development, agricultural land, landscape and visual impact, amenity of neighbouring land uses, access and traffic, recreational amenity, ecology, flooding and drainage, heritage, contamination and coal mining risk, safeguarding mineral resources, and public sector equality duty.

### The Principle of the Development

60. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the Great Aycliffe Neighbourhood Plan (GANP) are 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. The GANP was adopted in October 2017 and covers the period 2016 to 2036. Part of the site falls within the boundary of the GANP with the other part in an area with no Neighbourhood Plan.
61. 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.
62. In light of the recent adoption of the CDP and the SNP the Council has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). Accordingly, Paragraph 11(d) of the NPPF is not engaged.
63. The application is for the conversion of agricultural land to wetland habitats with associated engineering works and creation of temporary access bridge. The application site lies within the open countryside. The key principle policy for the determination of this application is CDP Policy 10 relating to development in the countryside.
64. CDP Policy 10 states that new development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, result in the merging or coalescence of neighbouring settlements, contribute to ribbon development, impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for, be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport, be prejudicial to highway, water or railway safety; and impact adversely upon residential or general amenity. Development must also minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
65. Policy 10 permits certain forms of development described within the Policy, and other certain forms of development as summarised in Footnote 54 of the CDP. Footnote 54 includes Green Infrastructure, which is covered by Policy 26. Policy 26 states that development will be expected to maintain and protect, and where appropriate improve, the county's green infrastructure network. The Policy also states that this will in turn help to protect and enhance the county's natural capital and ecosystem services. Paragraph 5.256 of the CDP then states that as well as public open space, 'Green Infrastructure' includes wildlife sites and river corridors.
66. The proposal seeks to create wetland habitat which would deliver demonstrable ecological benefits. Whilst the site would not be accessible to the public, the development would still be a form of Green Infrastructure. The proposal accords with CDP Policy 26, and therefore accords with CDP Policy 10. Consequently, the development is acceptable in principle in an open countryside location.
67. There are also a number of applicable environmental protection policies within the CDP, GANP and the NPPF which are considered below.

## Agricultural Land

68. Paragraph 174 of the NPPF seeks to protect best and most versatile land. CDP Policy 14 states that development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. It goes on to state that all development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
69. The NPPF defines the 'best and most versatile agricultural land' as being Grades 1, 2, and 3a. The site is on land classed as Grade 4 by Natural England. Natural England define Grade 4 as land of 'poor' agricultural value. The site does not fall within the 'best and most versatile agricultural land' as defined by the NPPF.
70. Natural England has been consulted and have not responded.
71. Although the development would remove a portion of land from arable use, it is noted that the site is not valued agricultural land as defined by the NPPF, whilst it is considered that the benefits of the development as set out above would outweigh the loss.
72. In respect of soils, it is noted that the excavated soils would be stored on site through the formation of mounds. Stripping, storage, handling and spreading of soil would be in accordance with current best practices. Some excavated spoil would be used around the edges of the basins with seed planting. It is noted that excess soils would be stored on site through the formation of a mound in the north western corner measuring up to 0.18m in height, which would remain in place once the works have completed. Stripping, storage, handling and spreading of soil would be in accordance with current best practices.
73. The proposed would therefore not conflict with CDP Policy 14 or Part 15 of the NPPF in this respect.

## Landscape and Visual Impact

74. Paragraph 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
75. CDP Policy 10 states that development in the countryside must not give rise to unacceptable harm intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for and must not result in the merging or coalescence of neighbouring settlements.
76. CDP Policy 29 requires all development proposals to achieve well designed buildings and places having regard to advice within Supplementary Planning Documents (SPDs) 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).

77. Policy 39 of the CDP states that 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, and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
78. CDP Policy 40 states that proposals for new development will not be permitted where they would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Where development would involve the loss of ancient or veteran trees it will be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Proposals for new development will not be permitted that would result in the loss of hedges of high landscape, heritage, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will not be permitted that would result in the loss of, or damage to, woodland unless the benefits of the proposal clearly outweigh the impact and suitable replacement woodland planting, either within or beyond the site boundary, can be undertaken.
79. Policy GANP CH1 of the Great Aycliffe Neighbourhood Plan states that all developments must respect the landscape character of the parish and its settlements, as defined within the Great Aycliffe Heritage and Character Assessment (December 2015), and incorporate features which contribute to the conservation, enhancement or restoration of local features.
80. The application site is located in the open countryside and an Area of Higher Landscape Value. The site is surrounded to the west by the A1(M) and adjacent tree line, to the north by agricultural fields beyond the River Skerne, and to the south and east by agricultural fields beyond the East Coast Mainline.
81. Notwithstanding the degree of screening that the site benefits from, officers are mindful of the scope and nature of the works, and that the construction period would last approximately eight weeks. No permanent structures or hardstanding is proposed. Whilst a site compound is proposed at the western part of the site, it would be in place during the construction period only and would therefore be temporary in nature. The removal of that feature of the development upon completion of the works can be secured by condition.
82. There are no works planned that should interfere with trees on site, however tree protection measures are set out in the submitted Construction Management Plan and this document would be secured by condition.
83. Planting details are set out in the submitted Materials and Workmanship Specification document which would be secured by condition.
84. Landscape Officers advise that there would be no adverse landscape or visual effects, and that the proposal would in fact have a beneficial effect on landscape character. Concerns were initially raised with the height of the spoil heap in the northwestern corner of the site and use of tree planting upon the heap, however those concerns have been resolved upon receipt of further information confirming that the heap would measure up to only 0.18m in height and would be seeded with grass rather than trees.
85. Subject to recommended conditions as described above, the proposal would enhance the appearance of the site and the amenity of the wider landscape. The proposal would therefore not conflict with Policy GANP CH1 of the Great Aycliffe Neighbourhood Plan, with Policies 10, 29, 39 and 40 of the County Durham Plan, and Part 15 of the NPPF.

## Amenity of neighbouring land uses

86. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 186 of the NPPF advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
87. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
88. The site is surrounded by agricultural fields. The nearest residential properties are at Ricknall Grange approximately 350m to the southwest, at Preston East Farm approximately 500m to the southwest, and at Swan Carr Farm approximately 1km to the northeast. Dust, noise and lighting control measures are set out in the submitted Construction Management Plan and this document would be secured by condition. Such measures include erecting temporary fencing, careful spoil laying and using wheel wash facilities to mitigate dust; and ensuring plant and machinery are in good condition to avoid unnecessary noise emissions.
89. Given the nature of the development and short duration of the proposed works, it is considered that the proposal would not have an adverse impact on the amenity or use of the neighbouring land uses, and would not have an unacceptable adverse impact on the amenity of occupiers of the nearest dwellings. The proposal would therefore not conflict with Policies 10 and 31 of the County Durham Plan and Part 15 of the NPPF.

## Access and Traffic

90. Paragraph 110 of the NPPF states 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. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans. Policy 21 also outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity.

91. During the construction and subsequent planting period, the site would use a temporary vehicular access via a farm to the southwest, onto Ricknall Lane which is an adopted Highway.
92. Highways officers have considered the proposal and advise that it raises no concerns over road safety and no conditions are recommended. The development would not lead to a highway safety impact and would not conflict with Policies 10 and 21 of the County Durham Plan and Part 9 of the NPPF.

#### Recreational Amenity

93. Part 8 of the NPPF seeks to promote healthy communities with a key reference being towards the protection and enhancement of public rights of way and access. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.
94. The Access and Rights of Way officer has been consulted and notes that there are no rights of way throughout the site, and therefore has no concerns. Notwithstanding the comments of the Access and Rights of Way officer, Footpath No.32 (Great Aycliffe Parish) runs across the proposed access route to the site where it passes under the A1(M), approximately 700m to the southwest of the site boundary.
95. The proposed development would not deteriorate nor lead to a loss of the identified Public Rights of Way. The proposals would not conflict with CDP Policies 10 and 26 of the County Durham Plan and Part 8 of the NPPF. A standard informative protecting rights of way throughout the proposed works is recommended submission of an updated Construction Method Plan to ensure that any conflict between construction vehicles and the public rights of way would be adequately managed

#### Ecology

96. Paragraph 180 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 43 states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts.
97. The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European

Protected Species to apply three tests contained in the Regulations in order to determine whether a licence is likely to be granted. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species must be maintained. Brexit does not change the Council's responsibilities under the law.

98. A designated Site of Special Scientific Interest (SSSI) known as Railway Stell West is located alongside the East Coast Mainline, approximately 150m east of the site at the closest point.
99. A Preliminary Ecological Appraisal has been submitted with the application, which concludes that there would be potential impacts on breeding birds, barn owl and otter, and recommends suitable mitigation measures. Measures are also recommended in respect of invasive/non-native species plants. In addition, a Water Vole and an Otter Survey have been submitted which conclude that Water Voles are unlikely to be impacted by the works, whilst mitigation measures are recommended in respect of otter.
100. The proposal seeks to create new wetland habitat in close proximity to the River Skerne. The application is supported by a Biodiversity Net Gain Metric Report which submits that the proposal would deliver a greater than 300% biodiversity net gain.
101. Ecology officers have no objection subject to the mitigation measures set out in the submitted Preliminary Ecological Appraisal being followed during the works. No concerns are raised in respect of impacts upon the SSSI.
102. In updated comments, the Ecology officers have recommended a planning condition to secure a Biodiversity Management Plan for the newly created open water and ditch habitats, as it is deemed necessary to ensure that the features created on site deliver the expected biodiversity enhancement over a 30 year period. Officers recommend that in this particular instance, due to the scale and nature of the works, the plan is required to be submitted within six months of commencement.
103. Natural England has not responded to the consultation.
104. The Environment Agency initially raised queries regarding insufficient survey work regarding water vole and otters, which are protected species. A Water Vole and an Otter Survey were subsequently submitted. Having considered the additional information the Environment Agency consider advise that it has no objection subject to a condition securing the submission and written approval of a Construction Environmental Management Plan, prior to works commencing. Informatives relating to updating the Construction Environmental Management Plan and relating to the Environment Agency's permits are also recommended in the interest of conserving protected species.
105. The Environment Agency has highlighted the consideration of Great Crested Newts when assessing and determining this application. The Council's Ecology officer has reviewed the relevant submitted details and advised that no further information is required, and subsequently have no objection.
106. The Council's Ecology officer considers that in light of the survey information submitted as part of the application, Ecology officers are comfortable that risks to Great Crested Newts are unlikely, and that no further work is required. The proposal would not interfere with the European Protected Species therefore a mitigation licence and derogation tests are not required for the proposed works.

107. The site is also within the Nutrient Neutrality catchment area for the Teesmouth and Cleveland Coast Special Protection Area/Ramsar. However, officers are mindful that the proposal would not lead to additional burden on the foul drainage network in the area. No consultees have raised any concerns in this respect.
108. Subject to the aforementioned conditions it is considered that the construction phase would not have an adverse impact on protected species, whilst when complete the proposal would deliver significant biodiversity enhancement. The development would not conflict with Policies 10, 41, 42 and 43 of County Durham Plan and Part 15 of the NPPF.

## Flooding and Drainage

109. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.
110. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
111. CDP 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. 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
112. The site is in Flood Zone 3b meaning it is effectively a functional floodplain. The proposal seeks to create wetland habitat adjacent to a watercourse. It is considered that proposals of this scale and nature meet the exception test to requiring a Sequential Test, by delivering notable biodiversity benefits whilst also not increasing flood risk.
113. A Flood Risk Assessment (FRA) has been submitted in support of the application. The FRA considers potential risks in respect of fluvial, pluvial, tidal and ground water flooding, as well as flood risk from artificial water bodies. The assessment concludes that tidal flood risk is not applicable, whilst the development would not lead to an adverse impact in respect of the remaining four sources.



114. Drainage and Coastal Protection officers have no objection to the proposed works and no conditions are recommended. The Environment Agency has raised no concerns in respect of flood risk.
115. The proposed development would not lead to an increased surface water flood risk on adjacent land and would not conflict with Policies 10 and 35 of the County Durham Plan and Part 14 of the NPPF.

## Heritage

116. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.
117. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset.
118. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. Policy GANP CH4 of the Neighbourhood Plan states that proposals affecting Listed Buildings, Scheduled Monuments or the Conservation Area of Aycliffe Village and their settings must preserve and, wherever possible, seek to enhance their significance. New developments should seek to avoid any significant adverse impacts on Heritage Assets and the Conservation Area of Aycliffe Village whether by nature of their height, scale or bulk, position, or by poor design, or by affecting the settings in a way that would compromise these assets.
119. There are no designated heritage assets within the site. The nearest are as follows:
  - Mordon Conservation Area, approximately 1,800m to the northeast; and
  - Preston-le-Skerne Deserted Village Scheduled Monument, approximately 550m to the southwest
120. Views between these assets and the application site are screened by trees and hedgerows. The Design and Conservation officer has been consulted and has no concerns. No conditions are recommended.
121. A Written Scheme of Investigation for Archaeological Monitoring (WSI) has been submitted with the application. The Council's Archaeology officers consider that the WSI is appropriate and can be approved. No conditions are recommended.
122. It is considered that the proposal would cause no harm to heritage assets or archaeological remains in accordance with CDP Policy 44 and Part 16 of the NPPF and the Listed Building Act.

## Contamination and Coal Mining Risk

123. Part 15 of the NPPF (Paragraphs 120, 174, 183 and 184) requires the planning system to consider remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate. Noting that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 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.
124. The site does not lie within a Coalfield Development Low Risk Area, therefore a Coal Mining Risk Assessment is not required. Should planning permission be granted then the Coal Authority's Standing Advice would be included within the decision notice as an informative note to the applicant in the interests of public health and safety.
125. Environmental Health and Consumer Protection (Contaminated Land) officers have considered the proposals and raise no objection, only recommending an informative advising the applicant on if unforeseen contamination is encountered. No contamination report has been required to be submitted as part of the application.
126. The proposal would not likely lead to a contamination risk, or lead to a risk of land instability. The proposal would not conflict with CDP Policy 32 of the CDP and with Part 15 of the NPPF in this respect.

## Safeguarding Mineral Resources

127. The site lies within a Mineral Safeguarding Area (MSA) for river sand and gravel. CDP Policy 56 advises 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 or which will sterilise an identified 'relic' natural building and roofing stone quarry as shown on Map C of the policies map document unless certain criteria apply. One such criteria, Criteria c), includes non-minerals development of a temporary nature that does not inhibit extraction within the timescale the mineral is likely to be needed.
128. Given the scope and nature of the works a Mineral Assessment has not been submitted as part of this application. It is considered that the scope and nature of the works would not sterilise the below ground mineral resource at this site, in accordance with criteria c) of Policy 56 of the CDP. It is therefore considered that the proposed development would not conflict with CDP Policy 56 and Part 17 of the NPPF.

## Public Sector Equality Duty

129. 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.
130. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

## CONCLUSION

131. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
132. The proposal seeks to create wetland habitat which would deliver significant Biodiversity Net Gain, and would enhance the visual amenity of the site within the wider landscape.
133. The development has been assessed against relevant development plan policies and material considerations and, subject to conditions where appropriate, the impacts are considered to be acceptable.
134. The proposed development has generated no public interest.
135. The proposed development is considered to broadly accord with the relevant policies of the County Durham Plan, Sedgefield Neighbourhood Plan and relevant sections of the NPPF.

## RECOMMENDATION

136. 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 plans and documents:

Plan	Drawing No.	Date Received
Site Location Plan	GIS\LF\66206\01-02	02/08/23
Ricknall Carrs General Arrangement - Planning	RC-ARP-ZZ-ZZ-M3-ZZ-0001 Rev P02	02/08/23
Ricknall Carrs Typical Details - Planning	RC-ARP-ZZ-ZZ-M3-ZZ-0002 Rev P01	02/08/23
Ricknall Carrs Construction Management Plan, by Lichfields dated 28 <sup>th</sup> July 2023	N/A	02/08/23
Preliminary Ecological Appraisal, by ARUP dated 20 <sup>th</sup> June 2022	Revision A	02/08/23
Materials and Workmanship Specification: Ricknall Carrs, by ARUP dated 16 <sup>th</sup> June 2022	N/A	02/08/23
Great North Fen Project: Ricknall Carrs Water Vole Report, by ARUP dated 5 <sup>th</sup> September 2022	Revision A	04/10/23
	Revision V1	04/10/23

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GANP CH1 of the Great Aycliffe Neighbourhood Plan, Policies 10, 21, 26, 29, 31, 32, 35, 39, 40, 41, 42, 43, 44 and 56 of the County Durham Plan, and Parts 9, 12, 14 and 15 of the National Planning Policy Framework.*

3. No development shall take place until the Construction Management Plan / Construction Environmental Plan (CEMP) has been updated and submitted to the Local Planning Authority for consideration in consultation with the Environment Agency and written approval. The updated CEMP shall include:
  - a. Biodiversity Plan which shall detail biosecurity and invasive non-native species (INNS) management best practice, utilising check-clean-dry procedures across the site for plant, materials and personnel.
  - b. Vegetation Clearance Plan.
  - c. Species Protection Plans relating to Great Crested Newts (*Triturus Crisatus*), Otter (*Lutra lutra*) and Water Vole (*Arvicola amphibius*).

The approved CEMP shall be adhered to thereafter; a copy of the CEMP shall be kept on site during works for contractors to refer to.

*Reason: To prevent the spread of invasive non-native species listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), in accordance with Policies 41 and 43 of the County Durham Plan and Paragraph 109 of the National Planning Policy Framework.*

4. Notwithstanding the hereby approved plans, prior to the excavation of any soils within the site, precise details including drawings of the height of the soil heap and associated soft landscaping shall be submitted to and approved in writing by the Local Planning Authority.

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

*Reason: In the interest of the amenity of the site and the wider landscape, in accordance with Policies 10 and 39 of the County Durham Plan, Policy GANP CH1 of the Great Aycliffe Neighbourhood Plan, and with the National Planning Policy Framework.*

5. The hereby approved temporary access and site compound, as identified within the hereby approved Construction Management Plan (by Lichfields, dated July 2023), shall be removed from the site as soon as reasonably practicable following the completion of the works. The land on which they would be located shall then be made good.

*Reason: In the interests of the appearance of the site and the amenity of the wider landscape, in accordance with Policies 10 and 39 of the County Durham Plan, Policy GANP CH1 of the Great Aycliffe Neighbourhood Plan, and with the National Planning Policy Framework.*

6. Within six months of commencement of the development a Biodiversity Management and Monitoring Plan (BMMP) for the open water and ditch habitats, covering a 30 year period from the date the habitats were created, shall be submitted to the Local

Planning Authority for approval in writing. Monitoring reports should be provided to the Local Planning Authority. The BMMP should include any proposed ecological enhancements and planting management.

*Reason: In order to deliver Biodiversity Net Gain in accordance County Durham Plan Policy 41 and Part 15 of the National Planning Policy Framework*

7. The hereby approved planting regime, as detailed under Section 4.1 of the hereby approved 'Materials and Workmanship Specification' document, shall be implemented within six months of completion of the hereby approved excavation works.

*Reason: In the interests of the visual amenity of the area and to comply with County Durham Plan Policies 10, 29, 39, 40 and 41 and Parts 12 and 15 of the National Planning Policy Framework.*

8. The development shall be carried out in accordance with the Avoidance and Mitigation, Compensation and Enhancement measures set out in Section 6 of the hereby approved 'Preliminary Ecological Appraisal (Issue A) Reference PEA\_Rev A) dated 20<sup>th</sup> June 2022 by Arup.

*Reason: In the interest of biodiversity in accordance with Policies 10, 26 and 43 of the County Durham Plan and the National Planning Policy Framework.*

9. Working hours would take place 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, with no works on Sundays and Bank Holidays

*Reason: In the interest of the amenity of occupiers of neighbouring dwellings, in accordance with Policy 31 of the County Durham Plan and the National Planning Policy Framework and Part 15 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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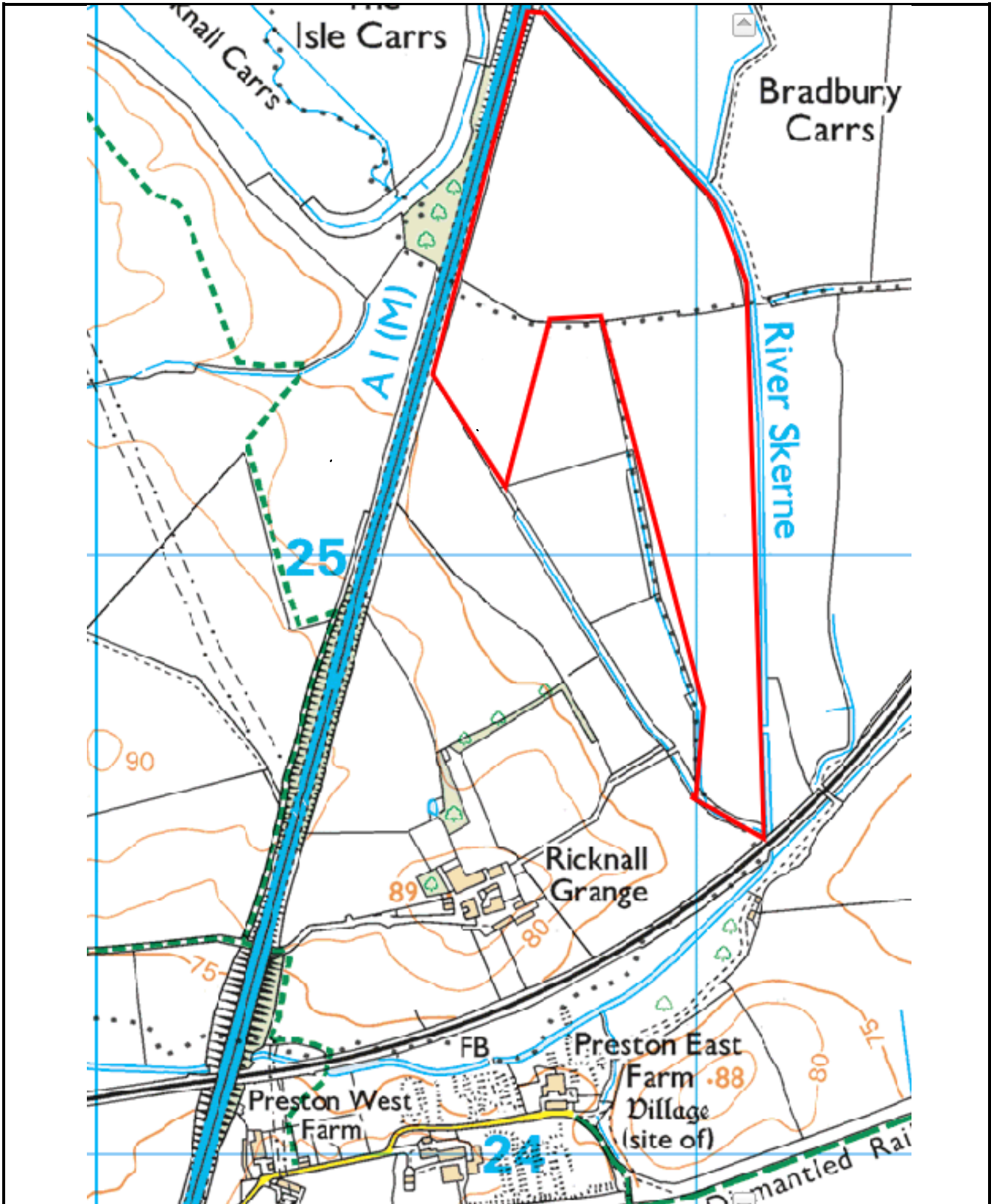
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. Whilst agreement has not been reached on the principle of development discussions have enabled agreement on a number of topics to allow for focus on the outstanding issues.

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## **BACKGROUND PAPERS**

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- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- Statutory, internal and public consultation responses
- The National Planning Policy Framework
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
- Great Aycliffe Neighbourhood Plan (2017)



**Planning Services**

**DM/23/02331/FPA**

Conversion of agricultural land to wetland habitats with associated engineering works, Land North East Of Ricknall Grange Farm, Ricknall Lane, Preston-le-Skerne, DL5 6JQ

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**Date** November 2023

**Scale** NTS