



## Area Planning Committee (North)

**Date** Thursday 28 November 2024  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 26 September 2024 (Pages 3 - 8)
4. Declarations of Interest (if any)
5. Applications to be determined;
  - a) DM/24/00939/FPA - Ponds Court, Genesis Way, Consett, DH8 5XP (Pages 9 - 36)  
Erection of retail foodstore (Class E) together with parking provision, alterations to access, landscaping and associated works.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

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

County Hall  
Durham  
20 November 2024

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

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

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

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**Contact: Michelle Lagar**

**Tel: 03000 269 701**

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**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 26 September 2024 at 9.30 am**

**Present:**

**Councillor E Peeke (Chair)**

**Members of the Committee:**

Councillors W Stelling (Vice-Chair), J Blakey, L Brown, J Purvis, K Shaw, A Sterling and A Watson

**Also Present:**

Councillor M Wilson

**1 Apologies for Absence**

Apologies for absence were received from Councillors G Binney, K Earley, J Griffiths, D Haney, A Jackson, B Moist and S Wilson

**2 Substitute Members**

There were no Substitute Members.

**3 Minutes**

The minutes of the meeting held on 25 July 2024 were agreed as a correct record and signed by the Chair.

**4 Declarations of Interest**

There were no declarations of interest.

**5 Applications to be determined;**

**a DM/24/00911/FPA - Fell Cottage, Hedley Hill, Durham, DH7 9EU**

The Committee considered a report of the Principal Planning Officer regarding an application to a change of use of residential dwelling (Use Class

C3) to childrens home (Use Class C2) for one child aged between 8-17 at Fell Cottage Hedley Hill Durham DH7 9EU (for copy of report, see file of minutes).

Leigh Dalby, Principal Planning Officer shared a detailed presentation with Members that included site location, ariel photograph and a site plan with the property boundary edged in red showing the proximity to the adjacent Hedleyhope Fell Nature Reserve within the hamlet of Hedley Hill.

There were two residential properties to the east and countryside to all other sides. The map included a Public Rights of Way Footpath 12 Cornsay and Footpath 10 Hedleyhope passed through the site and parts of the garden area were Common Land.

The Principal Planning Officer went onto say that there would be no significant alteration to the existing property which related to a stand-alone detached dwelling and used to provide a form of residential accommodation for 1 child aged 8-17 years. In this instance the dwelling was in good condition and the only proposed external changes to the property the addition of CCTV cameras and one and a half metre post fence to the property boundary with a small parking area for staff with Cycle storage and an EV charging point (subject to planning consent). The public right of way 10 and 12 would be diverted around the property for safety. The applicant would be required to submit a new the travel and management plan for review for winter and extreme weather conditions subject to policy 13 and 21.

In summary, it was considered that the site was acceptable in accordance with the relevant policies as set out in the report with the recommendations as detailed.

Councillor Wilson, Local member for the area addressed the committee. She stated that the property sat in a remote location with no access to public transport or amenities. The nearest retail premises, play area or school were 4.2 miles away. There were concerns with the safety of the access road which was an unclassified road and as a result regularly inaccessible during winter months for service vehicles such as refuse collections and emergency vehicles. As such, unless staff had four-wheel drive vehicles in inclement weather, they would not have access to the property by vehicle.

There were four properties in the hamlet and taking one away for business use reduced the amount of family homes in the area. This was a tight knit community and changing a property to a children's home didn't bring with it community cohesion but more likely fear of anti-social behaviour and a possibility of increased crime. Policy 18 of the Durham Plan stated that " sites offer a positive and safe environment for the occupants of the premises ensuring that there was appropriate access to local services and community

facilities;" "it was unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion" " satisfactory outside space, highway access, parking and servicing can be achieved." None of these points were met by this application.

Councillor M Wilson expressed her concerns with a travel plan provided as it was both unrealistic and inadequate with information included that was factually incorrect. The plan claimed that the nearest railway station was Chester le Street at 6 miles away when in fact it was 15 miles away. The nearest railway station was Durham at 9 miles away. The frequency of buses servicing the area was outlined in the Travel Plan, but it needed to be noted that this was a very limited service due to both operating hours and service disruptions during winter weather. The closest bus stop was a 37-minute walk in good weather from the property. It was also noted in the travel plan that if staff were required to be picked up from a bus stop or station arrangements could be made. However, this would reduce the staff available for supervision in the home that was required 24 hours. Councillor Wilson said she had requested information from Mark Readman, Head of Highway Services, and been informed by email that it would not be possible for a private company to grit the road in winter.

Ms Dixon, Objector to the application, highlighted concerns raised regarding the land at Fell Cottage that was currently enclosed by fencing was largely located on common land. It was noted in paragraph 47 of the Committee Report that the applicant had applied to amend the current fencing to no longer encroach on common land, residents had concerns that these matters had been agreed behind closed doors without any local consultation. Which leads to concerns that the amount of land remaining, that was not common land, would be insufficient for the purposes of a children's home.

As part of the National Planning Policy Framework at section 8, paragraph 96, part of the commitment was to ensure that fear of crime would not "undermine the quality of life or community cohesion." The focus isn't solely upon the new development and the impact of crime on them, but also on the existing community on which the change was being imposed". It stated in the report that the fear of crime needed to be objectively justified.

During June 2024 plans for a new children's home in Bowburn, County Durham, were rejected on the basis of antisocial behaviour, despite the application being to house 2 children and with only one being currently resident in the then non approved home.

The applicant's own Management Plan, in the Police Liaison section, references that there may be instances where behaviours from the residents in care could present "a significant concern to the community,". The level of crime was so low and the impact of any increased risk profile was one that causes genuine concern to all residents.

Mr Barton, Applicant (A Wilderness Way Ltd) (AWW) gave an overview of the organisation who worked to better the lives of children. They provided clinically informed therapeutic care and support for a relatively short period of time with the intention of enabling return to family or a suitable alternative.

By utilising countryside locations to provided children with outdoor activities and experiences which were truly life changing. AWW highlighted that as an organisation they were well versed in rural living and the work needed to work around weather conditions. As such teams were suitably equipped with appropriate vehicles and back up supplies in the event this was ever required.

He stated that fitting into the community follows when people recognise the significant, social benefits that AWW provided enabling us to work in co-existence and in most cases became active participants in community life.

Mr Franklin, Agent, spoke in support of AWW. He stated that The Council had identified gaps with current service provision for small scale Childrens homes, with a requirement for solo occupancy provision, which this application was seeking to address.

The operation model was seeking homes in remote locations so that children had the opportunity to feel safe and experience nature. It was typical of such locations that public transport options were not readily available; and, as detailed within the Management Plan, whilst staff would be encouraged to car share where possible, sufficient space for vehicles on site had been fully accounted for in all scenarios.

Regarding comments around emergency access during bad weather events, that these events were rare, and AWW had vast experience of operating within remote locations with staff trained and suitably equipped for all eventualities. In such instances, ensuring the vehicle on-site was equipped and capable to drive in these conditions and as such The Highways Authority had re-affirmed, they had no highway safety concerns.

Mr Franklin went on to highlight that there were no adverse impacts on the amenity of neighbouring residents, as the Applicant had a long track record and seeks to integrate into communities. As confirmed within the Committee Report, it was not considered a refusal reason could be upheld on fear of crime in this instance as there was no sufficient evidence presented which would justify a refusal.

Relating to matters around the adjacent Common Land, existing boundary treatment would be altered to exclude this area from the proposal and the footpath would be suitably diverted, as controlled by Condition 5.

There were no further registered speakers in relation to the application therefore the Chair opened the meeting to questions and debate from members.

Mr Barton responded to questions from Councillor L Brown regarding activities in a remote location and the engagement with residents in the local community. He outlined the approach AWW take to nurture and support individual children through a programme of outdoor pursuits delivered by staff on site. The organisation also engaged with local residents through meet and greet and the opportunity for tours inside the facility.

Councillor J Blakey requested assurances on the level of training which staff who worked at the Childrens home would receive. She noted that the care home at Bowburn was a totally different planning application with different circumstances as it was surrounded by 300 residential properties. This had been refused as it was also operating illegally.

Mr Barton responded that they looked at properties in rural communities to safeguard children and were trained to the highest level.

Councillor L Brown sought clarification on the arrangements for private gritting to access roads as it had been highlighted in the application that access in winter was challenging.

David Smith, Principal Highways Development Management Engineer, confirmed that there was a policy for the assessment of gritting routes however this was not a material planning consideration. Strategic Highway Operations categorise the roads access and gradient to determine where a gritting plan would be required. However, in terms of a planning application we would not assess which highway does and does not need gritting.

Laura Ackermann, Legal Officer, clarified that gritting of roads fell outside the planning system. Councillor L Brown queried why it was acceptable for her to grit an area of footpath outside her home but not for a private company to grit the road. The Legal Officer explained that the response that had been sent to Councillor M Wilson from the highways department regarding gritting explained that the private provider would not be gritting the roads with grit provided by the Council and therefore there were concerns around the quality of the grit being used and there was a liability issue for any non Council vehicles being used to grit an adopted highway. This was fundamentally different from residents accessing Durham County Council provided grit to self-grit areas of adopted highways and footpaths outside their homes.

In response to a question from Councillor K Shaw, The Principal Planning Officer stated that there was no evidence of increased crime following a

change of use. Police may be present on site more frequently carrying out safeguarding and engagement with visits not being as a result of a crime. In previous similar applications that were refused it would have been reviewed and rejected on the MPPF data.

Councillor A Sterling noted for the purpose of the minutes that the report referred to 'looked after children' this terminology should read 'children looked after'.

She added that as an independent visitor to Childrens homes, as part of her duties for the Corporate Parenting Committee, staffing in these homes was high level with the children needing the care and protection provided. She acknowledged that the Council has a duty under Section 21 of the Childrens Act 1989 that places an obligation on local authorities to provide accommodation for children looked after. As such she **moved** that they agreed the Officer's recommendation and approved the application subject to the conditions listed in the report.

Councillor A Watson added that it's hard for the application to be refused to house no more than 1 young person and when it complied with all planning policies. While respecting the views of residents there was no substantiating evidence that increased crime would result from supporting. Councillor A Watson requested clarification of what changes had been made in the conditions.

The Principal Planning Officer outlined changes to the conditions detailed in the report.

Councillor A Watson **seconded** the Officer's recommendation to approve the application subject to the additional conditions presented and an amendment to the conditions listed in the report.

Upon a vote being taken it was unanimously:

**Resolved:**

That the application be **APPROVED** subject to the conditions listed in the report (as amended) and the additional conditions provided as part of the Officer's report to Committee.





## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/24/00939/FPA
Full Application Description:	Erection of retail food store (Class E) with associated parking, alterations to access, landscaping and associated works.
Name of Applicant:	Project Genesis Ltd & Farmfoods Ltd.
Address:	Ponds Court Genesis Way Consett DH8 5XP
Electoral Division:	Consett North
Case Officer:	Scott Henderson (Senior Planning Officer) Tel: 03000 265286 Email: scott.henderson@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site is located at Ponds Court, off Genesis Way within the developed area of Consett. The site is approximately 4060 square metres in size and is currently vacant grassland on the whole with an established strip of planned landscaped planting fronting Genesis Way. The site is level and previously developed, historically being part of the Consett Iron Works when it housed cooling ponds and sidings. The site remained in industrial use until approximately 1980 after which it has remained unused and vacant.
2. The site is within a Coalfield Development High Risk Area, a Mineral Safeguarding Area, and within the Project Genesis boundary established to deliver employment related development but outside of the defined Consett town centre as set out on the County Durham Plan's Policies Map. There is woodland buffer constraint on the site due to the proximity of nearby woodland but no specific ecological assets present. The site is in Flood Zone 1.

3. The character of the surrounding land uses is varied, ranging from offices, retail, supported living, hot food and education facilities. Additional private residential units are located further north, approximately 60 metres away. The defined town centre boundary is located approximately 500 metres to the north and there are bus stops located directly adjacent to the site on Genesis Way.

### The Proposal

4. The application has been submitted on behalf of Project Genesis Ltd and Farmfoods Ltd for the development of a single storey retail building with associated parking, alterations to access, landscaping and associated works. It is proposed to have a mono-pitch roof with a maximum ridge height of 6.4 metres falling to 3.6 metres at the rear. The building would be finished in a selection of coloured metal cladding panels, with full height glazing towards Genesis Way and the front car park.
5. Vehicle access is via Ponds Court and uses the existing access from Genesis Way. A total of 50 car parking spaces are proposed incorporating 8 EV charging spaces, 4 parent and child and 4 accessible spaces. A further 12 cycle parking bays are proposed.
6. The layout will provide 1276 square metres of gross internal floorspace with a retail floor area of 1092 square metres. The existing landscaping belt alongside Genesis Way will be maintained and additional areas of native planting created, including 7 new trees. A service yard is proposed at the north east of the site which provides HGV parking and a refuse store. Deliveries will be limited to one HGV and one fresh bread delivery a day to be carried. The yard will be bounded by a timber fence in addition to a new landscaped area including new trees and hedging to provide screening toward the supported living building. All external plant will be located on the south-west (rear) elevation towards the adjacent drive through restaurant.
7. The application is being reported to the North Planning Committee in accordance with the Council's Scheme of Delegation as it constitutes a major development.

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## **RELEVANT PLANNING HISTORY**

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8. The following planning applications are relevant to the current application:  
  
DM/17/01128/FPA - Erection of 65 no. bedroom hotel with function suite, Managers Flat, parking and landscaping. Approved 28.07.2017.

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## **PLANNING POLICY**

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### **National Policy**

9. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:

10. *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.
11. *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.
12. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. *NPPF Part 7 Ensuring the Vitality of Town Centres* - Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
14. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 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.
17. *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.

18. *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.
19. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

20. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to 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; noise; public rights of way and local green space; planning obligations; use of planning conditions; and; water supply, wastewater and water quality.

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

#### **Local Plan Policy:**

The County Durham Plan (CDP)

21. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications;

makes use of previously developed land and reflects priorities for urban regeneration.

22. *Policy 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
23. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
24. *Policy 25 (Developer Contributions)* advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
25. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards.
26. *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.
27. *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.

28. *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.
29. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
30. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
31. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
32. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
33. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the

mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

#### Supplementary Planning Documents

34. Development Viability, Affordable Housing and Financial Contributions SPD (2024) – Provides guidance on how CDP Policy 25 and other relevant policies requiring planning obligations for affordable housing or other infrastructure will be interpreted and applied.
35. Trees, Woodlands and Hedges SPD (2024) – Provides guidance on good practice when considering the impacts of development on trees, woodlands, and hedgerows, as well as new planting proposals.
36. Residential Amenity SPD (2023) – Provides guidance on achieving high quality amenity and design standards specifically in relation to new residential development or development that may affect existing residential development.
37. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

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

#### Neighbourhood Plan:

38. The application site is located within the proposed Consett Neighbourhood Plan area but as of yet no policies are in place, only the Neighbourhood Plan boundary.

*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>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### Statutory Consultee Responses:

39. Highways Authority – A revised site layout plan has been provided which reduces the size of the proposed store from 1,347 sqm to 1,276 sqm, the parking remains the same at 50 spaces. Full vehicular tracking has been provided of a 16.5m HGV in and out of the site to demonstrate this works without any issues. This development would only have a marginal impact in terms of traffic, the 4 study junctions of which will operate well within capacity. The parking assessment provided for the 50 spaces indicates that the proposed capacity will be able to accommodate the expected demand with sufficient

spare capacity for spikes in demand. Subject to the submission of some details regarding white lines, no issues would be raised.

40. Lead Local Flood Authority (Drainage and Coastal Protection) – have no objections subject to the implementation of the proposed Drainage Strategy.
41. Coal Authority – have no objections subject to conditions relating to remediation.

#### **Internal Consultee Responses:**

42. Spatial Policy – consider that the principle of the development is in broad accordance with the provisions of the Development Plan and specifically the key policy tests within Policy 9.
43. Design and Conservation – notes that the site layout has been amended to retain the strategic landscaping. The proposed development site lies adjacent to a number of other retail uses. Should the principle of development be deemed acceptable, the proposed building design reflects a standard approach taken by many retailers in the surrounding context and would not be opposed.
44. Landscape Section – The proposed soft landscape plan appropriately retains the existing landscape planting along Genesis Way and provides a practical solution to tree and shrub planting on Ponds Court and to the north-east of the site. Proposed plant species, their locations, specification for establishment and maintenance proposals are appropriate and would deliver a sustainable landscape scheme for the site.
45. Ecology – have no objections to the proposals subject to the delivery of a scheme for offsite site for Biodiversity Net Gain. This will be secured via a s106 legal agreement due to it being classified as a significant off-site enhancement. They have however flagged that the applicant may need to top up with purchased credits to achieve the necessary BNG levels.
46. Environmental Health and Consumer Protection (Nuisance) – have no objections subject to conditions relating to sound insulation, hours of operation and construction works.
47. Environmental Health and Consumer Protection (Air Quality) – have no objections.
48. Environmental Health and Consumer Protection (Contamination) – have no objections subject to the proposed remediation taking place.

#### **External Consultees**

49. Police Architectural Liaison Officer (Durham Constabulary) – have suggested points to consider but offer no objection.



## **Public Responses:**

50. The application has been advertised in the local press (Northern Echo) by site notice and individual notification letters sent to neighbouring properties. No representations have been received.

## **Elected Members**

51. No comments from Councillors received.

*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>*

## **Applicants Statement:**

52. Farmfoods Ltd and Project Genesis Ltd have worked proactively with the council to bring forward this proposal for the development of a vacant site well located and accessible from Consett town centre and the wider settlement.

The applicant has responded to the comments of consultees to amend the scheme and prepare further work to resolve all issues raised.

This, together with the technical documents submitted with the application, shows the requirements of relevant national and local planning policy have been met and we would highlight the following key points:

- The application site is previously developed land within the urban area;
- Although out of centre for policy purposes, the site occupies a highly accessible location;
- It has been demonstrated that no sequentially preferable sites are suitable or available;
- The proposed foodstore will not harm the vitality and viability of Consett town centre as;
- The proposed store is a specialist retailer of frozen foods;
- Their range of non-frozen food goods is limited by comparison to other foodstores;
- The proposal will primarily divert trade from out of centre foodstores that do not benefit from policy protection;
- The proposed development will bring new investment to Consett;
- The proposed store will provide a high quality building of contemporary appearance;
- The development will not cause harm to residential amenity;
- The proposed development brings social and economic benefits, creating new jobs for local people and improving shopping facilities so retail expenditure is retained in Consett;
- Farmfoods offer value for money at a time when the cost of living crisis is still being keenly felt, and the proposed development provides additional choice for the community.

The applicant's consider the proposal is acceptable in all regards and merits support.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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53. 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.
54. 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, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
55. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Vitality of Town Centres, Locational Sustainability, Design, Landscape and Visual Impact, Highway Issues, Ecology and Biodiversity Net Gain, Residential Amenity, Drainage and Flood Risk, Ground Conditions and Land Stability and Air Quality.

### Principle of Development

56. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
57. The key material considerations in assessing the principle of development are Policies 6 and 9 of the County Durham Plan which deal with development on unallocated sites and retail and town centre policy; and Parts 2, 6 and 7 of the NPPF which ensure that developments are sustainable, encourage economic growth and protect the vitality of town and designated centres.
58. Part 2 of the NPPF requires applications for development proposals that accord with an up-to-date development plan to be approved without delay; and where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

59. Part 6 of the NPPF states that planning policy should encourage sustainable economic growth and recognise the need for specific locational requirements of different sectors, including provision for clustering of uses.
60. Part 7 of the NPPF seeks to ensure that planning decision support the role of town centres and their importance to local communities, and that developments that are likely to have a significant adverse impact on centres should be refused, in order to maintain the integrity of Town Centres.
61. Policy 6 (Development on Unallocated Sites) relates to the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area but well-related to a settlement. Paragraph 4.110 advises that when assessing whether a site is well-related, the physical and visual relationship of the site to the existing built-up area of the settlement will be a key consideration. In this regard, it is considered that given the site is located immediately south of the town centre, the site can be said to be within the built-up area of this part of Consett. The policy sets out a series of criteria that proposals within such locations would need to accord with.
62. Criterion a requires that the proposal is compatible with any existing, allocated or permitted use of adjacent land. The site is located on the edge of the town centre in a largely commercial area. The impact on neighbouring uses has been considered against this criterion and CDP Policy 31 (Amenity and Pollution) later in this report.
63. Criterion b guards against coalescence and ribbon development. The site is located with a central part of the established built-up commercial area of Genesis Way, and as such the proposed development will not lead to either coalescence or ribbon development.
64. Criterion c guards against the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality. It is noted the land is undesignated in terms of recreation, ecology or heritage but in its current state offers little in regard to these.
65. Criterion d requires the proposals to be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement. This is discussed below.
66. Criteria e and f relate to highways and transport in terms of highway capacity, highway safety and sustainable transport. This is discussed below.
67. Criterion g seeks to guard against the loss of a settlement's or neighbourhood's valued facilities. The proposals would not give rise to any direct loss of such facilities.
68. Criterion h relates to climate change, including flooding issues, discussed below.

69. Criterion i encourages the use of previously developed land. The site is undeveloped but historically has been used for industrial uses in the past.
70. Criterion j states that where appropriate, the proposal should reflect priorities for urban regeneration. The impact of the proposals on defined towns centres will be considered through the assessment against CDP Policy 9 and CDP Policy 2, discussed below.
71. It is therefore considered subject to the relevant material planning considerations as outlined below, that the proposal would in principle be in accordance with Policy 6 of the County Durham Plan.

#### Ensuring the Vitality of Town Centres

72. The site is located outside of the defined Consett town centre as set out on the CDP Policies Map. CDP Policy 9 (Retail Hierarchy and Town Centre Development) sets out a retail hierarchy within which Consett is identified as a Large Town Centre. The Policy seeks to protect the vitality and viability of all centres within the hierarchy. CDP Policy 9 identifies those proposals for main town centre uses, as defined by the NPPF, not located within a defined centre will be required to provide a sequential test. This reflects guidance within Part 7 of the NPPF. The proposal (retail (1276 sqm gross floorspace) would constitute a main town centre use. Given the sites location it would constitute an out of centre site.
73. The applicant's sequential analysis has considered existing vacant units within the town centre. This found that many vacant units were small 'less than 150sqm' and therefore too small to accommodate the proposed development. One larger unit of 926sqm was identified on Front Street and whilst being considerably bigger than other vacant units, it was still smaller than the proposed floorspace required. The applicant also considered sites at Hermiston Retail Park which is not located within the town centre. Whilst Hermiston Retail Park is slightly closer to the town centre, the applicant states that there were no opportunities to occupy units within this complex. Considering the applicant's assessment against the data that the Planning Policy team hold on vacancy rates and units, these findings are agreed.
74. It is recognised that the site is well linked to the town centre and alongside the efforts that the applicant has made to consider more sequentially preferable sites, the conclusions of the applicant's sequential analysis are accepted.
75. CDP Policy 9 states that for proposals for retail, in excess of 1,500 sqm (gross) convenience floorspace or 1,000 sqm (gross) comparison floorspace, proposed outside of a defined centre, and that could impact on a Large Town Centre will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG. Given the proposed floorspace falls below this amount of sqm, the applicant has not carried out a detailed retail assessment but has provided some observations as to any impacts on the town centre, concluding that the impact would be very limited. This is based on likely trade

draw coming from stores that are not located within the defined town centre, notably Morrison and Tesco.

76. It is also noted that Lidl and Aldi are also located outside of the defined town centre. Whilst Iceland is located 'in centre', the Council's Retail and Town Centre study showed that Iceland performs strongly in terms of trading performance, and it is not considered that the proposal would have a significant impact upon the performance of Iceland.
77. Given all of the above, it is considered that the proposal is in accordance with Policy 9 of the County Durham Plan, and Part 7 of the NPPF, in that despite this being a town centre use outside of a designated town or local centre, it has been evidenced to an acceptable degree that the vitality and viability of food stores within the town centre of Consett will not be adversely impacted by this development. It is proposed to impose a planning condition restricting the use to Class E (a) only to ensure that any future uses are controlled.

#### Other Economic Impacts

78. Paragraph 81 of the NPPF advises that significant weight should be put on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The proposal would boost the local economy in terms of the provision of local jobs (15 full time equivalent jobs are expected) which carries significant positive weight in the assessment.

#### Locational Sustainability of the Site

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

82. Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured appropriate opportunities to promote sustainable transport modes can be, or have been, taken up.
83. Notwithstanding the out-of-town centre location, the site performs well in terms of accessibility. The closest bus stops to the application site that are serviced are located directly outside the site boundary on Genesis Way. Services depart the stop every 30 minutes headed to Newcastle and Rowlands Gill via Delves Lane, Blackhill and Shotley Bridge. These services operate from these stops from early morning to late evening all week, and in theory, provide access to the site by means other than private vehicles. For these reasons, it is considered that the proposal performs acceptably against the requirements set out in CDP Policy 21 and 29 in this respect.
84. In terms of cycle access, the site performs well, with the site lying in close proximity to the Sustrans C2C Cycle route and within a short ride of Consett Town Centre. It therefore considered that the application site fully achieves sustainable transport policy objectives would generally accord with the aims of Policy 21 and 29 of the CDP and Paragraphs 104,105 and 110 of the NPPF.

#### Design, Landscape and Visual Impact

85. CDP Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. It further states that all new major non-residential development will be required to achieve a BREEAM minimum rating of 'very good'. The applicants have confirmed that the development will achieve an equivalent BREEAM rating of 'excellent' as detailed in the submitted Sustainability and Energy Statements. A condition has been drafted to require the development to be carried out in accordance with these statements to achieve the necessary BREEAM rating.
86. CDP Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
87. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide

suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

88. The adopted Trees, Woodlands and Hedges SPD (2024) provides guidance on good practice when considering the impacts of development on trees, woodlands, and hedgerows, as well as new planting proposals.
89. The site is located adjacent to a number of other commercial, retail and food uses, the appearance of which has largely contributed to the character of the area. The proposed design of the building reflects this established commercial character and therefore would not appear out of place in this locality. The site is located next to Genesis Way which is well trafficked and also surrounded on 3 sides with footways. Whilst this location provides direct viewpoints from various aspects, the established planting, proposed planting and neighbouring restaurant and retail warehouses would all combine to screen the site from the south.
90. There are no landscape designations on or around the site and the trees on site are not covered by a Tree Preservation Order. Furthermore, the trees will remain unaffected by any construction works given their location in relation to the proposed layout. The site layout has been amended in response to concerns raised by landscape officers and now retains the entirety of the existing landscaped planting area fronting onto Genesis Way. This is supported by additional areas of soft landscaping and tree planting on the site which breaks up and screens to a degree the proposed car parking area, as well as providing on site biodiversity benefits. The proposed building features large expanses of glazed shopfront on its most visually prominent elevations and all plant is located at the building's rear, adjacent to the next-door drive through car parking area. As the proposal retains the existing landscaped area, and proposes additional landscaping and tree planting, it is considered to accord with Policies 39 & 40 of the CDP.
91. The proposal incorporates cycle parking facilities, EV charging points, an inverter heat pump and solar PV panels which are proposed to be installed to the roof. Farm Food stores do not generally require heating because of the use of recycled heat from freezers and chillers so such demands for energy will be minimised. The provision of cycling facilities, use of recycling and carbon free energy production is welcomed and in accordance with CDP Policy 29.
92. The development site will provide an easily accessible and navigable layout with new pedestrian linkages connecting the site to the surrounding footpath network.
93. Overall, the proposal as amended is considered to be acceptable in design, layout and landscaping terms in accordance with Policies 29, 39 and 40 of the CDP plus the adopted Trees, Woodland and Hedges SPD and Part 15 of the NPPF

## Highway Issues

94. CDP Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document.
95. The applicant has provided a full Transport Assessment in support of the application. The development access will be served via Genesis Way by the existing protected right turn arrangement. This access road leads into the site which also serves the commercial units of Consett Innovation Centre, Steel House, Stonham and the 41 residents of the Green.
96. A revised site layout plan has been provided which reduces the size of the proposed store from 1,347 sqm to 1,276 sqm, whilst the parking remains the same at 50 spaces. Full vehicular tracking has been provided of a 16.5m HGV in and out of the site to demonstrate that this type of vehicle used for deliveries would be able to access the site without any issues. As requested the applicant has carried out peak time traffic surveys at 4 junctions from manual classified turning counts on the 28 June 2024 at 3-7pm Friday and 9am - 1pm Sat 29th June 2024. The study junctions surveyed gives up to date traffic count data at Tesco Access / Genesis Way Roundabout, Ponds Court / Genesis Way Junction, McDonald's Access / Genesis Way Junction, Puddlers Corner Roundabout.
97. The committed development trips have been combined with the 2029 base flows to give the 2029 base + committed flows in the technical note submitted as part of the application. The applicant has surveyed 4 Farm Food sites to get accurate representative surveys at Berwick upon Tweed, Northumberland Road, Redcar, Station Road Newcastle and Stamfordham Road stores. The surveys recorded vehicular arrivals and departures over 15-minute intervals between 07am-11pm on Friday 7th June and between 7am-9pm on Saturday 8th June 2024. Also, daily average weekday till transactions have been provided for customer demand along with TRICS data calculations on store floor areas.
98. The average TRICS data indicates a store trip attraction of 122 two-way trips during the PM peak and 168 two-way trips during the Saturday peak. The assessment of 30% new trips has been distributed on the junction models from these new trips. Highway Officers consider from the modelling provided that this would only have a marginal impact in terms of traffic on the 4 study junctions and that they will operate well within capacity. The parking assessment provided for the 50 spaces indicates that the proposed capacity will be able to accommodate the expected demand with sufficient spare capacity for spikes in demand.



99. The Parking and accessibility SPD requires 1 parking space per 20sqm floor area. For the proposed development the SPD therefore equates to a parking requirement of 64 spaces. The application proposes 50 parking spaces and this is supported by a parking accumulation study (undertaken across comparable Farm Foods sites in the Region) that demonstrates that the proposed provision would be sufficient to meet expected demand, including an appropriate buffer for seasonal uplift.
100. In this context it is noted that the SPD provides guidance however sufficient evidence has been put forward to substantiate a lower provision and the Highways Authority agree that the development would not result in a Highways safety issue or harm under NPPF para 115 which references a severe cumulative highways impact. The development is therefore found to be acceptable in this respect and in compliance with CDP Policy 21 and Part 9 of the NPPF.
101. The road junction on Ponds Court needs to be updated with new or refreshed white line markings with the centre line of the main junction access extending and heading past the new store access, the adjacent junction for Consett Innovation Centre would also need to be refreshed.
102. Subject to these requirements, which are to be secured via planning condition, the proposals are considered to be acceptable and in accordance with CDP Policy 21 and Part 9 of the NPPF

#### Ecology and Biodiversity Net Gain

103. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
104. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

#### Impact on Protected Species and their Habitats

105. The applicant has provided an Ecological Impact Assessment which concluded that the site has negligible or low value in respect of habitat and protected

species and no further assessment is required for bats. Ecology officers within the Council agree with this assessment.

#### Biodiversity Net Gain

106. From the 2<sup>nd</sup> of April 2024, the requirements of Schedule 14 of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, apply to all planning applications for major development unless falling under one of the listed exemptions. This application was valid from the 5<sup>th</sup> of April 2024 and so is legally required to deliver biodiversity net gains of at least 10%.
107. In addition to the above, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks, and NPPF Part 15, Paragraph 180 d) advises that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. NPPF Paragraph 186 d) also advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
108. The application was supported by a Biodiversity Net Gain Assessment and a completed version of DEFRA's Biodiversity Metric. A scheme which combines both onsite and offsite Biodiversity Net Gain has been prepared, including land in the control of the applicant, a short distance from the application site (on land at the west of the nearby Tesco Extra site). The offsite enhancement scheme, considered as significant, indicates that the development would result in a 17.08% gain in biodiversity units with all trading rules satisfied. The submitted information has been reviewed by the Council's Ecologist who has indicated their satisfaction with the details provided at this stage.
109. Subject to the offsite enhancement which is considered significant and therefore is required to be secured via a legal agreement, and the appropriate conditions in accordance with CDP Policy 25 and the adopted Financial Contributions SPD, it is considered that the application would fulfil the requirements of Schedule 14 of the Environment Act 2021 (as inserted into Schedule 7A of the Town and Country Planning Act 1990), CDP Policy 41 and NPPF Paragraphs 180 d) and 186 d).

#### Residential Amenity

110. 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.

111. The application site is situated in a predominantly commercial area containing many similar retail and food uses and therefore the proposal would not be introducing any new uses to this area. Some of these businesses operate 24 hours per day (McDonalds), whilst neighbouring retail supermarkets (Morrisons, Tesco) operate from 6-7am to 10pm-midnight. The proposed opening hours of the application would be 7am-10pm. There are a number of residential properties within the general vicinity on The Green but these units are not directly adjacent and have commercial buildings between themselves and the site. It is not considered that the proposal would have any significant or sustained impact upon the amenity of residents in these units.
112. An assisted living building (Towers House) is located on the opposite side of Ponds Court to the north east of the proposed building approx. 10m away. The position of Towers House is such that it's gable wall containing two windows (serving a corridor) will face toward the proposed application site. The section of the application site closest to Towers House will feature timber close boarded fencing, landscaped buffers plus tree planting along the boundary of the site, along with the servicing and delivery area (proposed to be used twice daily) within this section of the site.
113. The proposed service and delivery area is not considered to cause a significant detrimental impact on the neighbouring use due to its limited activity throughout the day which will be controlled by a condition on hours of delivery and hours of opening of the store.
114. It is therefore considered that subject to the above condition and due to the orientation of the application site ensuring that the primary activity associated from customers visiting the store, will be located in areas away from this neighbouring use that the proposal would be acceptable in terms of residential amenity for the users of Towers House.
115. Environmental Health (Nuisance Action Team) have no objections to the proposals subject to controls relating to construction, sound insulation of plant and hours of operation and these can be secured via the appropriate planning conditions. In summary it is considered that the proposal would have no significant or unacceptable impact on health and living conditions of neighbouring residential uses in accordance with CDP Policy 31, Part 12 of the NPPF and the adopted Residential Amenity SPD.

#### Drainage and Flood Risk

116. 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.

117. Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
118. A Flood Risk Assessment and Drainage Strategy has been submitted to accompany the application confirming that the site lies within Flood Zone 1 (low probability of flooding) and that the Northumbrian Water are satisfied with the proposed surface water discharge rates which will need to enter the public system. The Lead Local Flood Authority are satisfied with the drainage solutions proposed and have no objections. Officers are therefore satisfied, based on the advice given by consultees, that the proposal accords with Policies 35 and 36 of the CDP and Part 14 on the NPPF.

#### Ground Conditions and Land Stability

119. CDP 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.
120. The site is located in a Coalfield Development High Risk Area and accordingly the applicant provided a Preliminary Risk Assessment and Ground Investigation Report incorporating a Coal Mining Risk Assessment. The reports have been considered by both the Coal Authority and the relevant Contaminated Land team within the Council. Both consultees conclude that the proposal is acceptable subject to conditions related to secure further intrusive site investigations and any remedial works required and thereafter verified. These issues will be controlled via appropriate planning conditions.
121. CDP Policy 56 seeks to prevent planning permission from being granted for non-mineral development that would lead to the sterilisation of mineral resources. It sets out where development may be applicable within these areas. The site is located within a mineral safeguarding area (coal resource area), as defined on the Policies Map. Relevant to this site, criterion e of the policy refers to appendix c which sets out proposals that are exempt from providing a mineral assessment. One of these exemptions is where a development would be 'infilling in an otherwise built-up frontage within a settlement'. It is considered that the site qualifies for this exemption described in appendix c and therefore, a mineral assessment is not required.

122. In summary, subject to the proposed conditions, the proposal is considered to accord with Policies 32 and 56 of the CDP and part 15 of the NPPF.

#### Air Quality

123. An Air Quality Assessment was submitted with the application which has been assessed by AECOM on behalf of the Council. No objections are raised subject to an enhanced Construction Environmental Management Plan being secured via planning condition to incorporate dust control measures. Subject to this condition the development is considered to be in accordance with CDP Policy 21 and Parts 9 and 15 of the NPPF.

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## **CONCLUSION**

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124. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
125. In this instance, it is concluded that whilst the site is located outside of a designated local centre the proposal will utilise a previously developed, vacant site within an established commercial area. The site is unallocated but has good links to the surrounding retail park and the wider Project Genesis sites that have assisted with the regeneration of Consett. The supporting documentation has demonstrated that the impact of the proposal on the defined town centre would be very limited and that the trade impact would mainly be drawn from the adjacent Morrisons and Tesco which are outside of the town centre. The site is well served by public transport and the traffic impacts would not create an unacceptable change on the highway network. The proposal will continue to assist with the regeneration of this part of Consett, providing additional services for residents and employment opportunities.
126. Consideration has been given to the Principle of Development, Vitality of Town Centres, Locational Sustainability, Design, Landscape and Visual Impact, Highway Issues, Ecology and Biodiversity Net Gain, Residential Amenity, Drainage and Flood Risk, Ground Conditions and Land Stability and Air Quality
127. The development has been assessed against relevant development plan policies, the NPPF and material considerations and with no other harm identified is considered to be acceptable. Therefore, the application is recommended for approval, subject to the completion of a Section 106 legal agreement and conditions as set out below.

#### Public Sector Equality Duty

128. 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.

129. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the completion of a legal agreement under Section 106 of the Town and County Planning Act 1990 (as amended) to secure the following:

- Onsite and Offsite BNG enhancements and monitoring/maintenance agreement

And 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 accordance with the approved plans listed below:

Drainage Strategy 000-01 A  
Drainage Construction Details 000-02  
Ground Plan - V2.0 Rev 02  
Proposed Elevations EL 400 F  
Proposed Floor Plan FP 300 E  
Proposed Site Plan SP 201 C  
Proposed Site Block Plan SP 202 B  
Soft Landscape Plan 01 P02  
Tree Pit Detail 02 P01  
Proposed Roof Plan FP 301 A  
Site Location Plan LP 100 A  
Lighting Design V 2.0

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 29 of the County Durham Plan and Parts 12 of the National Planning Policy Framework.

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

1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.

2.Details of methods and means of noise reduction/suppression.

3.Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

4.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

5.Designation, layout and design of construction access and egress points.

6.Details for the provision of directional signage (on and off site).

7.Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

8.Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

9.Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

10.Routing agreements for construction traffic.

11.Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

12.Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

13.Management measures for the control of pest species as a result of demolition and/or construction works.

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

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

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

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

the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

4.No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

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

Reason: In the interests of residential amenity in accordance with Policy 31 of the CDP and Part 15 of the NPPF.

5.All sound attenuation measures detailed in the noise impact assessment prepared by Clover Acoustics Ltd reference 4882-R2 dated 12/07/2024 and published on 15/08/2024 shall be fully implemented prior to the beneficial occupation of the development and permanently retained thereafter.

Reason: In the interests of residential amenity in accordance with Policy 31 of the CDP and Part 15 of the NPPF.

6.The development hereby approved shall not be brought into use until a scheme for updated road markings on Ponds Court has been submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety in accordance with Policy 21 of the CDP and Part 9 of the NPPF.

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

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the CDP and Part 15 of the National Planning Policy Framework.

8. The development hereby permitted shall not be brought into first use until the car/vehicle parking area (and turning space) shown on the approved plans has been completed. Thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that there are adequate parking facilities to serve the development constructed to an acceptable standard in accordance with Policy 21 of the CDP and Part 9 of the NPPF.



9.The development hereby approved shall not be brought into use until the proposed roof mounted photovoltaic panels have been installed and connected in accordance with the manufacturer's instructions. The roof mounted photovoltaic panels shall be thereafter maintained for the lifetime of the development.

Reason: In the interests of minimising greenhouse gas emissions and contributing towards zero carbon development in accordance with Policy 29 of the CDP and Part 14 of the NPPF.

10.The premises shall not be open to members of the public outside of the hours of 07.00 to 22.00 on any day.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

11.The development hereby approved shall be carried out in full accordance with the recommendations of the submitted Portland Flood Risk and Drainage Impact Assessment report 2023104 Rev B dated July 2024.

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

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

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

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

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

Replacements will be subject to the same conditions.

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

13. The development hereby approved shall not be brought into use until a servicing and delivery scheme (detailing times and frequency of delivery vehicles) has been submitted to and approved in writing by the Local Planning Authority, and thereafter implemented and maintained for the lifetime of the development in accordance with the approved details. No deliveries shall take place unless in full accordance with the approved scheme.

Reason: In the interests of highway and pedestrian safety and residential amenity in accordance with Policies 21 and 31 of the CDP and Part 15 of the NPPF.

14. The development hereby approved shall be carried out in accordance with the recommendations (section 5) of the submitted Biodiverse Consulting Ecological Impact Assessment BIOC22-37 V1 dated February 2023.

Reason: In the interests of biodiversity in accordance with Policy 41 of the CDP.

15. The development hereby approved shall be built out in accordance with the Energy Statement and Sustainability Statements dated 7 November 2024.

Reason: To ensure compliance with Policy 29 of the County Durham Plan.

16. The Biodiversity Gain Plan shall be prepared in accordance with the Biodiversity Net Gain Assessment dated 30.10.2024 and prepared by Biodiverse Consulting.

Reason: To ensure the Biodiversity Gain Plan submitted for approval accords with the biodiversity information submitted with the planning application and that the development delivers a biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

17. Prior to the first use of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. This document shall confirm the completion of the remedial works (Section 3.6 of the Remediation Strategy Issue V2, January 2024 (Shadbolt Group) and any further mitigation necessary to address the risks posed by past coal mining activity. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure compliance with Policy 32 of the County Durham Plan and Part 15 of the NPPF.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the premises shall be used only for uses contained within Use Class E (a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area, highway safety and protection of the Town Centre, in accordance with Policies 6, 9, 21, 29 and 31 of the County Durham Plan and Parts 7, 9 & 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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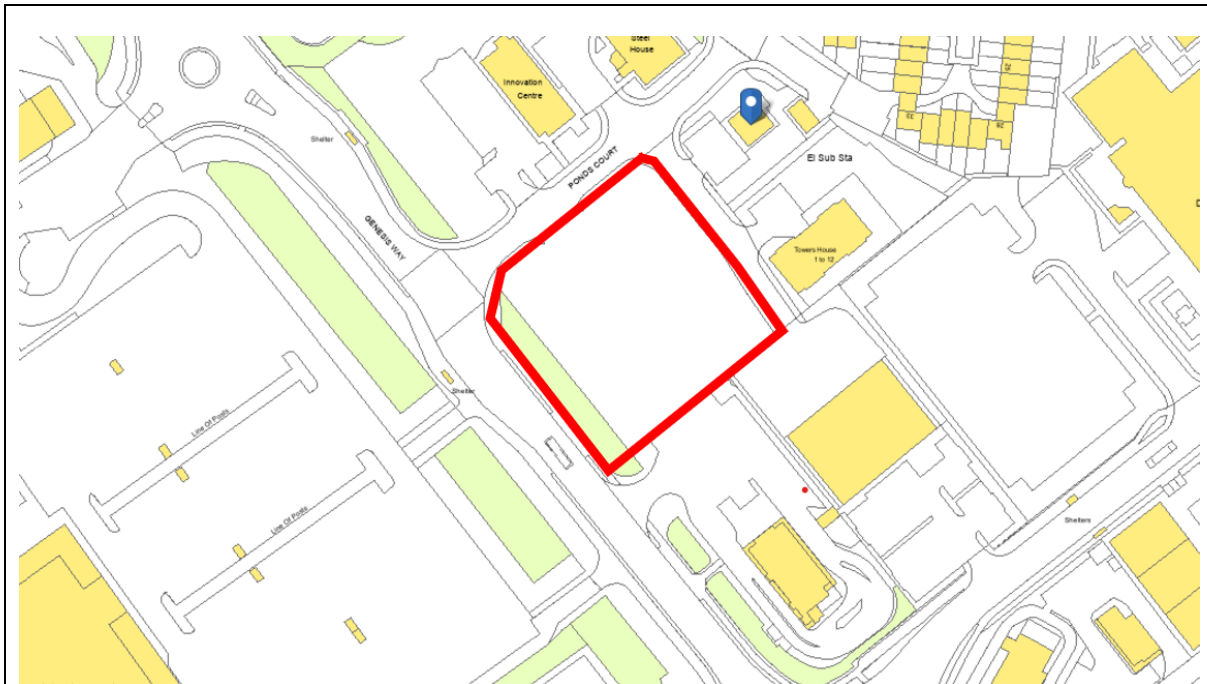
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant 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.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents.  
National Planning Policy Framework  
National Planning Practice Guidance Notes  
County Durham Plan (2020)  
Residential Amenity Standards SPD (2023)  
Parking and Accessibility SPD (2023)  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



**Planning Services**

Erection of retail food store (Class E) together with parking provision, alterations to access, landscaping and associated works

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2024

Date: 20.11.2024