

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	3/2009/0426
<b>FULL APPLICATION DESCRIPTION:</b>	Proposed redevelopment of Former Concrete Batching Plant for the construction of new housing (outline)
<b>NAME OF APPLICANT:</b>	Tandum Properties Limited
<b>ADDRESS:</b>	Former Cemex Concrete Batching Plant, St. Helen Way, St. Helen Auckland, Bishop Auckland, DL14 9AJ
<b>ELECTORAL DIVISION:</b>	West Auckland ED
<b>CASE OFFICER:</b>	Chris Baxter (Senior) Planning Officer 01388 761626 chris.baxter@durham.gov.uk

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### BACKGROUND

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1. The South West Area Planning Committee in January 2010 resolved to grant outline planning permission for residential development on the Fomer Cemex Factory at St. Helens Auckland subject to conditions and the signing of a Section 106 Legal Agreement requiring:
  - i) a contribution to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality; and
  - ii) a minimum 20% affordable housing provision.
2. The Legal Agreement was never signed and the planning permission has not been issued as the applicant has concluded that the development is not viable in the current economic climate when affordable housing is incorporated into the proposed residential scheme. It has therefore been requested that the Council review the application with a view to removing the requirement for a minimum 20% affordable housing provision. This request is supported by a written justification and viability assessment.
3. The statement argues that the site development costs, including the absorption of the value reduction to allow for 20% affordable housing, creates a position where there would be no value for a developer in the current market situation. It is also considered that there are a range of properties for sale within the local housing market at prices which are lower than the build costs for affordable housing units. The applicant is therefore of the view that there is a strong case to allow market housing to be built on the site, which would also help kick start the construction sector and its many related supply businesses, as well as the retail sector.
4. This matter is being reported to Planning Committee in view of the earlier decision that was taken on the application.

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## CONSULTATION RESPONSES

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### INTERNAL CONSULTEE RESPONSES:

5. *Planning Policy Team* has raised no objections subject to a condition requiring the situation to be reviewed/re-appraised periodically to test whether changing market conditions impact on whether affordable housing can be supported.
6. *Assets Team* has verified the viability assessment and confirm the conclusions that in the current market the scheme is not viable with affordable housing included.

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## PLANNING ASSESSMENT

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7. The key planning consideration is whether the viability of the proposed housing scheme with or without the inclusion of affordable housing has been adequately assessed and takes full account of market constraints.

### Viability

8. The previous committee report (annexed) states that *'in light of the fact that the loss of employment land is under consideration it is important that affordable homes are included'*. This was not disputed by the applicant at the time although the delivery of this requirement has not been possible over a period extending to nearly two years. It is accepted that the housing market has changed in certain areas in the current economic climate in terms of higher construction costs and lower housing prices. Government guidance *Greater Flexibility for Planning Permissions* also intimates that that a pragmatic and supportive approach should be taken to help bring developments forward in the current economic situation.
9. The site is located in an area which has undergone substantial regeneration in recent years, with adjacent housing developments and the nearby retail stores of Tesco's and Sainsbury's. The site contains some derelict buildings that are visually intrusive and its redevelopment would be beneficial to the surrounding area. It is also acknowledged that the site was previously occupied by a cement factory and that extensive remediation work is required in order to bring it into residential use. This can entail costs that are not required on other sites.
10. The viability assessment which has been submitted has been fully considered by the County Assets Team and has been processed through the Council's ProVal viability system. This appraisal system has verified the applicant's assessment that the proposed development is not viable with the inclusion of 20% affordable housing provision because of the extensive site remediation costs. However, it must be noted that officers are disappointed that other potential options and variations for the level of affordable housing provision, such as a lower amount of affordable housing provision, have not been fully reviewed or modelled by the applicant, particularly as this is just as outline scheme where scenarios might change in a detailed scheme and there is no certainty with the build cost.
11. The findings are simply a snap shot of the outline scheme as proposed within the current economic climate. These conditions may change and as the application is for outline planning permission an alternative residential scheme could potentially come forward which may prove to be viable, or the economic climate could change within the lifetime of the consent and the drawing up of a detailed scheme.

12. Should members be minded to remove the immediate requirement for 20% affordable housing provision within the legal agreement it is recommended that this is replaced with a condition in the agreement requiring a periodic review of the viability of the scheme in relation to affordable housing. This would mean that there remains a mechanism to introduce affordable housing into the residential scheme should circumstances change in the future and the appropriate amount would be determined at the time. This is important because the provision of affordable housing was an important consideration in the original resolution to grant permission. There is of course still the potential that if the scheme is brought forward in the near future that there would be no affordable housing provided under this arrangement.
13. No changes are proposed to the financial contribution of £93,900 for the provision and subsequent maintenance of related social, related community and/or recreational facilities in the locality; and there are no other changes to the scheme that was resolved to originally grant permission subject to the S106.

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## **CONCLUSION**

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14. The Council's ProVal viability system confirms the evidence provided by the applicant that if the proposed residential scheme was to be delivered in accordance with the outline proposal, it would not be viable with the inclusion of 20% affordable housing at this time because of the economic climate and the site remediation costs. This does not however take into account any potential reductions in the amount of affordable housing to be provided, and is based on assumptions for an outline scheme as opposed to a detailed scheme where the true build costs would be better known.
15. No other details of the proposed residential application are to be altered and the planning conditions and the commuted sum detailed in the previous report remains.
16. It is recommended that if the provision for 20% affordable housing is removed from the scheme, it should be replaced with a condition set out in the Section 106 Legal Agreement requiring the viability of the scheme in relation to affordable housing to be reviewed periodically.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the applicants first signing a Section 106 legal agreement setting out:

- a) contribution to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality; and
- b) a mechanism for the viability of the site in relation to affordable housing to be reviewed periodically.

And the following conditions and reasons:

1. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of appearance, scale, layout and landscaping (hereinafter called “the reserved matters”) shall be obtained in writing from the local planning authority before any development is commenced.

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

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

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
	OS Sitemap	06/10/2009
01 Rev B	Proposed Site Plan	06/10/2009

*Reason: To define the consent.*

4. The development hereby approved shall achieve a Code for Sustainable Homes minimum rating of level 3. Evidence shall be provided to the local planning authority that:

Prior to the commencement of development , the development has been registered for formal assessment by a licensed Code assessor to achieve a Code for Sustainable Homes Design Certificate level 3; and

Prior to the first occupation of the development, the development has achieved a Code for Sustainable Homes post construction certificate level 3, or alternative as agreed in writing by the local planning authority.

*Reason: In order to minimise energy consumption and to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1 and 3.*

5. Development shall not commence until details demonstrating how CO2 reduction and energy efficiency measures will be incorporated into the approved development have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented and retained in accordance with the approved details. The submitted details shall include an assessment to demonstrate how a minimum improvement in DER over TER of 25% will be achieved – the equivalent of Code level 3 of the Code for Sustainable Homes.

*Reason: In order to minimise energy consumption and to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1 and 3.*

6. No development shall take place until a full schedule of all the materials to be used in the external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. Thereafter, samples of the materials to be used in the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to commencement of development. Development shall be carried out in accordance with the approved details.

*Reason: In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

7. Prior to the commencement of the development details of the surface treatment and construction of all hardsurfaced areas shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

*Reason: In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

8. Before commencement of development, details of the height, siting, appearance and construction of all means of enclosure to be erected upon the site shall be submitted to and approved in writing by the local planning authority, and the works shall be carried out in accordance with such approved details.

*Reason: In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

9. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme of landscaping shall include details of planting species, sizes, layout, numbers and maintenance regime.

*Reason: In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development (or occupation of buildings or commencement of use) and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

*Reason: In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

11. Before the development hereby approved is commenced wheel washing equipment shall be provided at all site egress points to ensure that site vehicles are cleansed of mud so that mud is not trailed onto the public carriageway. The wheelwashing equipment shall be used on all vehicles leaving the site during the period of construction works.

*Reason: In the interests of highway safety and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

12. Notwithstanding the information shown on the submitted plans, no development shall be commenced until details of the means of access, including the layout, construction, and sight lines to be provided have been submitted to and approved in writing by the local planning authority, and the buildings hereby permitted shall not be occupied until the approved access has been constructed, in accordance with the approved plans.

*Reason: In the interests of highway safety and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

13. Development shall not commence until a detailed scheme for the supply of potable water for the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.

*Reason: The water supply system is at capacity and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

14. Development shall not commence until a detailed scheme for the disposal of surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.

*Reason: To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25.*

15. No development shall commence until a scheme for protecting the future occupiers of the development hereby permitted from noise from the surrounding industrial/commercial premises has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any part of the development is occupied.

*Reason: In order to prevent noise disturbance in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

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## **BACKGROUND PAPERS**

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Previous committee report:

# Planning Services

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	3/2009/0426
FULL APPLICATION DESCRIPTION:	PROPOSED REDEVELOPMENT OF FORMER CONCRETE BATCHING PLANT FOR THE CONSTRUCTION OF NEW HOUSING, FORMER CEMEX CONCRETE BATCHING PLANT, ST. HELEN WAY, ST. HELEN AUCKLAND, BISHOP AUCKLAND, DL14 9AJ
NAME OF APPLICANT:	TANDEM PROPERTIES LIMITED
ELECTORAL DIVISION:	West Auckland Chris Baxter
CASE OFFICER:	chris.baxter@durham.gov.uk 01388 761987

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## DESCRIPTION OF THE SITE AND PROPOSALS

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The application comprises of the former Cemex Concrete Batching Plant situated on St. Helens Way in St. Helens Auckland. The site is allocated in the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007 under policy 15 as a General Industrial Site. There is a residential estate (which includes houses on Warner Avenue and Elliot Way) situated directly to the west of the application site. The adopted highway is to the north from which the site is accessed from, and beyond this residential houses are located approximately 50 metres away. There is a community playground to the north west. The bypass is located to the south of the application site. Directly to the east of the site are industrial/commercial units on St. Helens Way industrial estate. There is also a commercial premises situated to the north west between the site and the highway.

Outline planning permission is sought for residential development. The means of access is to be considered in this application with all other matters reserved for future consideration. The proposed access is to utilise the existing access to the site from the north. The proposals incorporate the demolition of the existing units on the site. An indicative layout plan of the site has been submitted which shows the creation of 143 houses, and also includes an area of open space for a children's playground. The design and access statement provides information that the houses will be a mix of 2 and 3 bedroom properties and there will also be a mix of terrace, semi-detached, linked and detached properties. It is envisaged that the properties would be a traditional two storey type with brick walls and tiled roofs.

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## **PLANNING HISTORY**

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The following planning applications relate to this site:

3/1981/0288 – Inflam liquid store – Approved 18/05/1981

3/1981/0515 – Gravel shed – Approved 07/09/1981

3/1981/0657 – Notice board – Approved 11/11/1981

3/1984/0717 – Extension to mould shop – Approved 10/12/1984

3/2002/0501 – Extension of single storey industrial unit – Approved 03/10/2002

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

**Planning Policy Statement 3: Housing (PPS3)** - Underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.

**Planning Policy Guidance 4 (PPG4) Industrial, Commercial Development and Small Firms** – Takes a positive approach to the location of new business developments. In considering mixed uses, it is recognised that it may not be appropriate to separate commerce-especially small-scale developments-from the residential communities for whom they are a source of employment and services. In areas which are primarily residential, development plan policies should not seek unreasonably to restrict commercial and industrial activities of an appropriate scale, which would not adversely affect residential amenity. Planning permission should normally be granted unless there are significant objections, such as a relevant development plan policy, unacceptable noise, smell, safety, and health impacts or excessive traffic generation. On speculative development, planning applications should be considered on their land-use planning merits; authorities should not normally seek to investigate whether the developer already has particular prospective purchasers or tenants.

**Planning Policy Guidance (PPG13) Transport** - Aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, and accommodate housing principally within urban areas.

**Planning Policy Statement 22 (PPS22) Renewable Energy** – Sets out government policies for renewable energy. The guidance preceded the PPS1 Climate Change Supplement. The importance of renewable energy in delivering the Government's commitments on climate change is emphasised. Local planning authorities and developers should consider the opportunity for incorporating renewable energy projects in all new developments. Small scale renewable energy schemes utilising technologies such as solar panels, biomass heating, small scale wind turbines, photovoltaic cells and combined heat and power schemes can be incorporated both into new developments and some existing buildings.

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## REGIONAL POLICY:

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

**Policy 2 – Sustainable Development:** Planning proposals should support sustainable development and construction through the delivery of environmental, social and economic objectives.

**Policy 3 – Climate Change:** Locating new development to reduce the need to travel, encourage decentralised renewable energy supply systems and to maximise energy efficiency.

**Policy 4 – The Sequential Approach To Development:** A sequential approach should be adopted for the identification of land for development to give priority to previously developed land and buildings in the most sustainable locations.

**Policy 18 – Employment Land Portfolio:** The appropriate provision of general employment land and key employment locations should be made.

**Policy 38 – Sustainable Construction:** Planning proposals should ensure new developments minimise energy consumption; and encourage and promote buildings to achieve high energy efficiency and minimise consumption in terms of the BREEM rating and the Code for Sustainable Homes.

**Policy 39 – Renewable Energy Generation:** Planning proposals should facilitate the generation of at least 10% of the Region's consumption of electricity from renewable sources; aspire to further increase renewable electricity generation to achieve 20% of regional consumption by 2020; and facilitate the achievement of minimum sub regional targets by 2010.

**Policy 40 – Planning for Renewables:** Plans should support and encourage renewable energy proposals and identify renewable resource areas. In assessing proposals for renewable energy development significant weight should be given to the wider environmental, economic and social benefits arising from higher levels of renewable energy.

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## LOCAL PLAN POLICY:

The following Wear Valley District Local Plan as amended by Saved and Expired Policies 2007 are relevant in the determination of this planning application:

**General Development Criteria (GD1):** All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.

**Distribution of Development (H3):** New development will be directed to those towns and villages best able to support it. Within the limits to development of town and villages, as shown on the Proposals Maps, development will be allowed provided it meets the criteria set down in Policy GD1.

**Community Benefit (H22):** On sites of 10 or more dwellings the local authority will seek to negotiate with developers a contribution, where appropriate, to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality.

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**Residential Design Criteria (H24):** New residential development and/or redevelopments will be approved in accordance with criteria set out to ensure that proposals are appropriate and safeguard the amenities of the area and residents.

**General Industrial Sites (I5):** Land shown on the Proposals Maps will be reserved and developed as general industrial sites. Proposals for business uses (Class B1), general industry (Class B2) and warehousing and distribution (Class B8) will be permitted provided they fulfil the General Development Criteria.

**Sport and Recreation Target (RL5):** For every 1 hectare of land developed or redeveloped for residential purposes, at least 1300 square metres of land should directly be made available on or off site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities.

**Highways General Policy (T1):** All developments which generate additional traffic will be required to provide adequate access to the development; not exceed the capacity of the local road network; and be capable of access by public transport networks.

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*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at [www.durham.gov.uk](http://www.durham.gov.uk)*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

#### **One North East:**

Full response on file. The consultation concludes that subject to the resolution of any policy, design, environmental and highway issues to the satisfaction of the local planning authority, One North East would raise no objection to the outline planning application.

#### **Northumbrian Water:**

No objections subject to the following conditions:

1. Development shall not commence until a detailed scheme for the supply of potable water for the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.
2. Development shall not commence until a detailed scheme for the disposal of surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.

#### **Environment Agency:**

No objections to the proposal.

### **INTERNAL CONSULTEE RESPONSES:**

#### **Forward Plans (Planning Policy):**

The planning policy team support the proposal in principle subject to a legal agreement ensuring that an appropriate level of affordable homes is provided for. The full response is on the planning file however the majority of the comments are included within the 'Planning Considerations and Assessment' section.

**Highways:**

This application is in outline. The layout of the internal road is not to be determined at this time, although means of access is not reserved for future approval. Some alterations will be required to the internal road layout. This can be discussed and conditioned at the reserved matters stage.

It is considered that the proposed site access road must be 5.5 metres in width, not 4.8m as shown. This width, plus two 1.8m wide footways will require that the site access be 9.1m wide. According to the existing site plan (which appears to be 1:500 scale despite being labelled 1:1250) the existing access to be some 9.0m wide. For this reason I consider that an accurate survey plan of the access must be submitted prior to the granting of any permission in order to determine that adequate access can be achieved.

**Ecology:**

Following the submission of a risk assessment, no objections are made.

**Senior Low Carbon Officer:**

The applicant should be aware that building regulations are due to be updated in 2010 and for part L1A this should mean a 25% minimum carbon improvement on 2006 regulations. Whilst it is very much correct that the applicant can apply for a nil rated certificate, Durham County Council would very much encourage the applicant to apply for an assessment to ensure sustainability is embedded throughout the development and not just in terms of energy.

**PUBLIC RESPONSES:**

The neighbouring properties were consulted and a site notice was posted close to the site. A press notice was also placed in the local newspaper. No objections or observation have been received.

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*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at [www.durham.gov.uk](http://www.durham.gov.uk)*

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**PLANNING CONSIDERATIONS AND ASSESSMENT**

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The key issues for consideration are:

- Sequential approach to development
- Loss of industrial/employment land
- Highway considerations
- Sustainability and renewable energy
- Affordable housing and community benefit
- Residential amenity
- Design and layout

**Sequential Approach to Development**

Policy 4 of the RSS states that locations for developments should be selected in the following order:

- a. Suitable previously-developed sites and buildings with urban areas, particularly around public transport nodes;
  - b. Other suitable locations within urban areas not identified as land to be protected for nature or heritage conservation or recreational purposes;
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- c. Suitable sites in locations adjoining urban areas, particularly those that involve the use of previously-developed land and buildings; and
- d. Suitable sites in settlements outside urban areas, particularly those that involve the use of previously-developed land and buildings.

The application site is a disused concrete batching plant and is therefore clearly previously-developed land. The site is located within the settlement limits of Bishop Auckland which is classed as an urban area with easy access to services and community facilities.

The proposed development site is classed as a priority 1 site and is therefore a sequentially preferable location. The proposed development is in accordance with Policy 4 of the RSS and policy H3 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007.

#### Loss of Industrial/Employment Land

The key challenge for County Durham is to ensure a sufficient and appropriate supply of employment land and premises during the Local Development Framework period. The current position in regards to employment land supply in County Durham is contained in the Durham CC Employment Land Review – Draft Final Report dated November 2009 (ELR). The main emerging headline is that there is an over supply of employment land in County Durham with the exception of the A1 and A19 Corridors. This oversupply is evident in respect of office, industrial and warehousing land use. More specifically there is an oversupply of industrial land within the Bishop Auckland market area which includes Spennymoor “...relative to the demand identified which is largely localised in this context...”. Given the potential oversupply any employment sites that could be considered for alternative uses should be those that have constraints in terms of industrial use because for example of adjoining uses.

Turning to the application site itself, the site is currently allocated in Local Plan policy I5 as a General Industrial Site seeking B1, B2 and B8 use. However, PPS3 requires local planning authorities in para. 44 to consider “... whether sites that are currently allocated for industrial or commercial use could be more appropriately re-allocated for housing development.” This is reinforced in RSS para. 3.93 when it states that “PPS3 requires local authorities to consider the redevelopment of ‘unneeded’ employment land for housing.” although it goes on to state that “Employment land is essential for economic prosperity, the renaissance of the Region and in the delivery of sustainable communities. Therefore, whilst housing on previously developed land is important, the re-use of such land for employment is also important.”

It is understood that the former Cemex Concrete Batching Plant scaled down operations about 12 months ago and for the last 8 months the site has been marketed as a concrete batching plant or as an industrial site generally but there have been no interest.

The applicant has submitted an Employment Land Appraisal including a financial appraisal which states that the concrete batching plant cannot economically be adapted to another industrial use. Information submitted seeks to explain the non-viability of the site for continuing industrial use and it states that, given assumptions, further industrial use of the site given the remediation works required would make it unviable.

It is further considered that residential use for the site would be appropriate given that the former Cemex site is bounded on its western side by a fairly recent housing development and an existing residential development to the north. To the east there is a more modern industrial premises that visually provides an edge for the industrial estate. The site boundaries do not appear to have any buffer zones and there is potential for bad neighbour

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issues to arise. With this in mind it is considered that at least part of this site may be unsuitable for industrial use especially if any future use were to be similar in nature to the previous use.

### Highway Considerations

The internal estate layout road is reserved for future consideration however it is noted that changes would have to be made to the plan which has been submitted. It is acknowledged at this stage that the internal road layout can be discussed and conditioned at the reserved matters stage.

The Highways Officer has indicated that the site access is required to be 9.1 metres wide. The submitted plans show the access to be 9.0 metres wide. Whilst the Highways Officer raises no objections, he has requested that a condition is imposed for details of the access to be submitted.

### Sustainability and Renewable Energy

Climate change is high on the global agenda and the Government's Climate Change Act 2008 has given a statutory requirement to reduce carbon emissions and sustainability is the overarching aim of all planning policy. In particular PPS1, including the Climate Change Supplement, PPS3, PPG13 and PPS22 all place an emphasis on achieving sustainable development by among other things: promoting sustainable patterns of development, making efficient use of land and securing renewable energy and energy efficiency measures in new development. This theme runs strongly through most RSS policies, but is particularly reinforced in policies 3 and 38. Policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 requires new development to be designed to conserve energy. The Code for Sustainable Homes is also now mandatory for all new housing developments.

RSS policy 38 specifically requires all major developments to secure at least 10% of their energy supply from renewable sources and to achieve an appropriate high Code for Sustainable Homes rating. The current Government targets for all new dwellings are to achieve a 25% Dwelling Emissions Rate (DER) saving by 2010 (The equivalent of Code Level 3 of the Code for Sustainable Homes). This will increase to a 44% DER saving by 2013 (level 4) and ultimately Zero Carbon by 2016 (level 6). Code for Sustainable Homes though is about more than just energy efficiency. It also covers water, waste, pollution, health, management and ecology for which credits can be gained in each section.

It would therefore be appropriate to condition that the development should achieve Level 3 of the Code for Sustainable Homes and secure at least 10% of the energy supply from on-site renewable sources. In order to satisfy this requirement the developer will have to submit an assessment of how the proposal will meet 10% renewables.

### Affordable Housing and Community Benefit

In terms of affordability the developer is aiming for low cost high density dwellings. However, this does not mean that there is a specific commitment to affordability in planning terms. In light of the fact that the loss of employment land is under consideration it is important that affordable homes are included in order that such an action can be justified. Based on the County Durham Strategic Housing Market Assessment (2008) it is suggested that in the former Wear Valley District area the Local Authority could seek a minimum of 20% affordable housing provision, with a target that 80% of affordable housing should be social

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rented and 20% intermediate housing (as per PPS3 Annex B definitions) as a starting point for negotiation. As part of any agreement it should be noted that there is also a need for larger affordable homes as well as two bed starter homes (as noted in the Wear Valley SHMA). There may need to be a flexibility clause in any section 106 legal agreement to suit the economic conditions of the time if and when a reserved matter application is submitted.

Policy H22 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007 states that on sites of 10 or more dwellings the local authority will seek to negotiate with developers a contribution to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality. This contribution is usually a financial contribution set at a pro rata rate of £30,000 per hectare which would be secured through a section 106 legal agreement.

It is also noted that policy RL5 of the Local Plan states that for every one hectare of land developed for residential purposes, at least 1300 square metres of land should be made available on or off site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities.

Whilst the submitted layout plan does show an element of open space allocated for children's play area, it is noted that the layout is reserved for future consideration, therefore this open space allocation may not be included in a reserved matters application. In this situation it is considered flexibility is required to be written into a legal agreement which reduces the amount of financial contribution required should open space allocation be included within a reserved matters application.

### Residential Amenity

It is noted that this application is in outline and the full details of the proposed housing is not too be finalised however it is considered appropriate given the location that residential amenity is commented on.

There are existing residential properties to the west. The layout plan submitted shows adequate levels of separation distance between the proposed and existing properties. It is considered that sufficient residential amenity can be achieved between the proposed residential estate and the estate to the west.

Industrial units are located directly on the east boundary of the application site. Under general operations from industrial units, a significant amount of noise and disruption can be created. Should residential properties be allowed on the application site, it is important the future residents are protected from industrial noise and disruption and subsequently future businesses should not be put off by the location of residential properties being close to the industrial units. It is therefore recommended that a condition is appropriate in order to provide mitigation measures along the east boundary and part of the north boundary adjacent to the business premises.

It is considered that adequate levels of residential amenity can be achieved through a reserved matters application which will be able to meet the residential criteria set out in policy H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007.

### Design and Layout

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As stated above, it is understood that the design and layout of the scheme would be considered under a reserved matters application however given a layout plan and description of the type of housing was submitted it is considered appropriate to comment on these issues.

The layout plan shows a ridged and uniformed appearance. The high number of terraced and linked type properties adds to the uniformed appearance and it is suggested that a reserved matters application should seek to overcome this issue to offer a more visually pleasing street scene. The design and access statement included with this application states that the type of houses would be a traditional two storey style and this is welcomed as it would be in keeping with the surrounding residential properties in the area. It is considered that a range of different types of housing should be explored, which would include detached properties. It is also noted that there are few footpath links through the site and this should be taken into consideration when submitting a reserved matters.

Acknowledging that the layout plan submitted with the application is not for consideration in this outline application, it is recognised that an acceptable scheme can be provided which meets the criteria for design and layout set out in policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007.

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## **CONCLUSION**

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In terms of location, the application site is considered to be sequentially preferable as it is the development of a previously-developed site in a sustainable location situated near to community facilities and services in the urban area of Bishop Auckland.

It is noted that this application is a departure from the Local Plan as it is the development of residential properties on allocated industrial land. An Employment Land Appraisal including a financial appraisal has been submitted with the application. The Bishop Auckland market area is considered to have an oversupply in industrial units at present. The application site does have constraints as it has been marketed for 8 months as business premises with no interest. In physical terms the site stands apart from the industrial estate to the east. On balance it is considered that although the proposal is a departure from the Local Plan, there would be no adverse impacts on the level of employment land in the immediate surrounding area.

A condition is recommended with regards to the means of access to ensure an adequate access is provided into the site.

Conditions are recommended which would ensure the required levels of sustainability and renewable energy requirements within the proposed scheme are brought forward.

Given the loss of industrial land, it is considered necessary to secure affordable housing for this scheme through a section 106 legal agreement. A minimum of 20% affordable housing provision, with a target that 80% of affordable housing should be social rented and 20% intermediate housing would be sought. The section 106 agreement would also incorporate a contribution to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality, whether this be through the inclusion of facilities on site or the payment of a financial contribution.

In general it is considered that adequate levels of residential amenity could be achieved through the submission of a reserved matters application. A condition is recommended for

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details of mitigation measures to be submitted to ensure the residential amenity is not adversely affected by activities from the adjacent industrial buildings.

The layout plan submitted with the application and the type of housing proposed is not considered acceptable. However it is noted that this is an outline planning application and these issues would be considered in a reserved matters application.

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## **RECOMMENDATION**

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**That the application be APPROVED subject to the applicants first signing a Section 106 legal agreement setting out:**

- (a) contribution to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality; and**
- (b) affordable housing provision;**

**and the following conditions and reasons:**

1. The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice unless otherwise firstly approved in writing with the Local planning authority.
2. The development hereby approved shall achieve a Code for Sustainable Homes minimum rating of level 3. Evidence shall be provided to the local planning authority that:
  - Prior to the commencement of development , the development has been registered for formal assessment by a licensed Code assessor to achieve a Code for Sustainable Homes Design Certificate level 3; and
  - Prior to the first occupation of the development, the development has achieved a Code for Sustainable Homes post construction certificate level 3, or alternative as agreed in writing by the local planning authority.
3. Development shall not commence until details demonstrating how CO2 reduction and energy efficiency measures will be incorporated into the approved development have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented and retained in accordance with the approved details. The submitted details shall include an assessment to demonstrate how a minimum improvement in DER over TER of 25% will be achieved – the equivalent of Code level 3 of the Code for Sustainable Homes.
4. No development shall take place until a full schedule of all the materials to be used in the external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. Thereafter, samples of the materials to be used in the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to commencement of development. Development shall be carried out in accordance with the approved details.
5. Prior to the commencement of the development details of the surface treatment and construction of all hardsurfaced areas shall be submitted to and approved in writing by



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the Local planning authority. The development shall be undertaken in accordance with the approved details.

6. Before commencement of development, details of the height, siting, appearance and construction of all means of enclosure to be erected upon the site shall be submitted to and approved in writing by the local planning authority, and the works shall be carried out in accordance with such approved details.
7. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local planning authority. The scheme of landscaping shall include details of planting species, sizes, layout, numbers and maintenance regime.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development (or occupation of buildings or commencement of use) and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local planning authority gives written consent to any variation.
9. Before the development hereby approved is commenced wheel washing equipment shall be provided at all site egress points to ensure that site vehicles are cleansed of mud so that mud is not trailed onto the public carriageway. The wheelwashing equipment shall be used on all vehicles leaving the site during the period of construction works.
10. Notwithstanding the information shown on the submitted plans, no development shall be commenced until details of the means of access, including the layout, construction, and sight lines to be provided have been submitted to and approved in writing by the local planning authority, and the buildings hereby permitted shall not be occupied until the approved access has been constructed, in accordance with the approved plans.
11. Development shall not commence until a detailed scheme for the supply of potable water for the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.
12. Development shall not commence until a detailed scheme for the disposal of surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.
13. No development shall commence until a scheme for protecting the future occupiers of the development hereby permitted from noise from the surrounding industrial/commercial premises has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any part of the development is occupied.

**Reasons:**

1. To define the consent and ensure that a satisfactory form of development is obtained in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
2. In order to minimise energy consumption and to comply with the aims of the Regional

3. In order to minimise energy consumption and to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1 and 3.
4. In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
5. In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
6. In the interests of the appearance of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
7. In the interests of the visual amenity of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
8. In the interests of the visual amenity of the area and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
9. In the interests of highway safety and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
10. In the interests of highway safety and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
11. The water supply system is at capacity and to comply with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
12. To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25.
13. In order to prevent noise disturbance in accordance with policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

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## **REASONS FOR THE RECOMMENDATION**

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The proposal is in accordance with policies GD1, H3, H22, H24, RL5 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007, policies 2, 3, 4, 38, 39 and 40 of the Regional Spatial Strategy and guidance contained in PPS3, PPG13 and PPS22 and would not conflict with the overall aims of I5 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007, policy 18 of Regional Spatial Strategy and PPG4 for the following reasons:

- The site is in a sequentially preferable location as its previously-developed land, within the urban area of Bishop Auckland close to services and community facilities.
  - The loss of allocated industrial land would not compromise the availability of
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employment land within the area.

- The proposal would not compromise highway safety.
- The development would meet current sustainability and renewable energy standards.
- Affordable housing would be accommodated within the scheme along with a contribution to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality.

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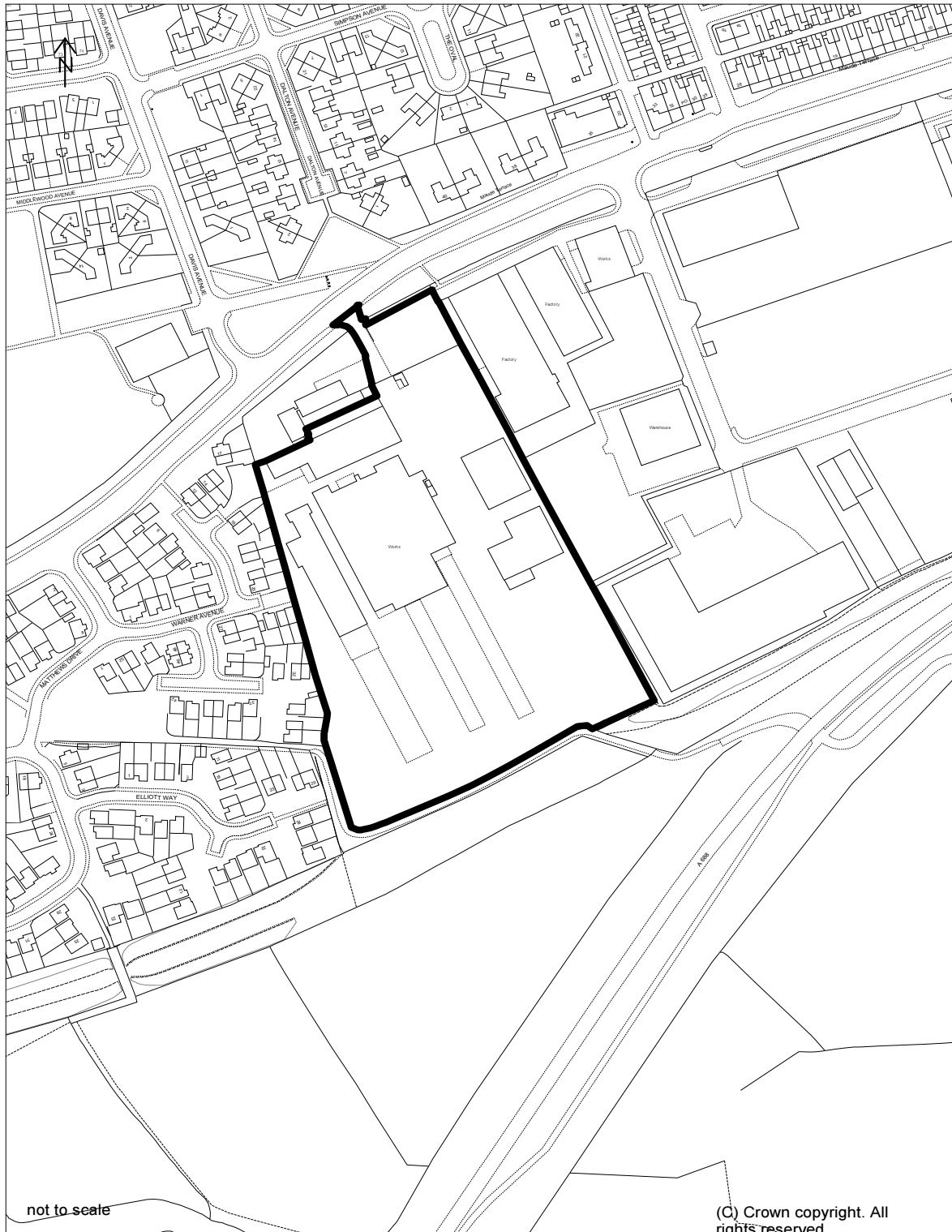
## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007
- Planning Policy Statements/Guidance
- Consultation Responses
- Public Consultation Responses



**3/2009/0426 - PROPOSED REDEVELOPMENT OF FORMER CONCRETE BATCHING PLANT FOR THE CONSTRUCTION OF NEW HOUSING, FORMER CEMEX CONCRETE BATCHING PLANT, ST. HELEN WAY, ST. HELEN AUCKLAND – TANDEM PROEPRITIES LIMITED**



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