

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/20/03591/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of a petrol filling station and drive thru' coffee outlet (Class E), along with access, car parking, drive thru' lane, external seating area, refuse stores, hard and soft landscaping and associated works
<b>NAME OF APPLICANT:</b>	C G Robinson And Sons Ltd & C J Leonard And Sons Ltd
<b>ADDRESS:</b>	Land West Of Units 1-3 Admiralty Way Seaham SR7 7DN
<b>ELECTORAL DIVISION:</b>	Dawdon
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer 03000 261958, <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a parcel of agricultural land extending to some 11.73 hectares, which is located to the north of the A182 and west of Admiralty Way and the Fox Covert Industrial Estate and is situated to the south of Seaham. The site is north of the approved Garden Village. The site is clear of any vegetation and has been used previously as a compound when constructing the adjacent industrial estate.
2. The site doesn't lie in an area covered by any national or local landscape designations. An area defined as Area of Higher Landscape Value in the County Durham Plan lies to the immediate east.
3. There are no public rights of way or heritage assets within the proposed development site. Approximately 460m north-west of the site is Stony Cut Bank and the line of the of the South Hetton Railway. It is visible on the first edition OS map circa 1860 and may be considered a non-designated heritage asset with communal value as a well-used route.

### The Proposal

4. Planning permission is sought for the erection of a Petrol Filling Station (PFS), pump canopy and a coffee drive thru. There would be a total of 61 parking spaces, 30 associated with the coffee shop, of which 4 will be electric and 2 disabled and the rest associated with the PFS. The development area itself is less than 1 hectare and the total proposed floorspace is 654sqm.

5. The application has been revised since the scheme was originally submitted, which sought permission for a large static caravan site as well as additional retail space. Both these elements have now been removed from the scheme entirely.
6. The planning application is being reported to the County Planning Committee at the request of Councillor Kevin Shaw.

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## **PLANNING HISTORY**

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7. There is no relevant planning history relating to the application site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

8. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. In accordance with Paragraph 213 of the National Planning Policy Framework, the following elements of the NPPF are considered relevant to this proposal.
9. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. *NPPF Part 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.
12. *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.

13. *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.
14. *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.
15. *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.
16. *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.
17. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

18. 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; 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; 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

19. *Policy 6 - Development of Unallocated Sites* - States the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to the character of settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; encourages the use of previously developed land and reflects priorities for urban regeneration.
20. *Policy 9 - Retail Hierarchy & Town Centre Development* - The council will protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
21. *Policy 10 – Development in the Countryside*. Makes clear that development in the countryside will not be permitted unless allowed for by specific policies in the Plan, or where it relates to a number of exceptions listed within the policy which include certain forms of economic and infrastructure development, as well as the redevelopment of brownfield sites. The policy sets out a number of general design principles for all development in the countryside, which seek to ensure that the character of the area is appropriately preserved alongside the setting of heritage assets, amenity of residents and safety of the highway network amongst other factors.
22. *Policy 21 - Delivering Sustainable Transport*. Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
23. *Policy 26 – Green Infrastructure*. States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
24. *Policy 29 – Sustainable Design*. Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
25. *Policy 31 - Amenity and Pollution*. Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to

potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

26. *Policy 32 – Despoiled, Degraded, Derelict and Contaminated Land.* Requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
27. *Policy 35 - Water Management.* Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
28. *Policy 36 - Water Infrastructure.* Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and 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.
29. *Policy 37 - Durham Heritage Coast and Wider Coastal Zone -* The council will seek to protect and enhance the Durham Heritage Coast and wider Coastal Zone. Development proposals within the Durham Heritage Coast or wider Coastal Zone, as defined on the policies map.
30. *Policy 39 – Landscape.* Proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
31. *Policy 40 - Trees, Woodlands and Hedges.* Proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
32. *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.
33. *Policy 43 - Protected Species and Nationally and Locally Protected Sites.* Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and

maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.

34. *Policy 44 - Historic Environment*. Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

#### NEIGHBOURHOOD PLAN POLICY:

35. There is no Neighbourhood Plan for this area.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### STATUTORY RESPONSES:

36. *National Highways* – Offer no objections.
37. *Highway Authority* – No objection to the revised scheme and on the basis of amended plans in relation to an existing junction and appropriate visibility splays. A construction management plan is requested and it is noted that it would be necessary for the applicant to enter into an agreement under Section 278 of the Highways Act 1980, in order to allow the required works within the existing highway to be carried out and this would be added as an informative on any planning approval.
38. *Northumbrian Water Limited* – Have commented that the planning application does not provide sufficient detail with regards to the management of foul and surface water from the development for Northumbrian Water to assess their capacity to treat the flows from the development. Therefore, NWL have requested a condition for a detailed scheme for the disposal of foul and surface water from the development.
39. *Drainage and Coastal Protection (Lead Local Flood Authority)* – have advised that in view of a revised layout/boundary the site would appear to be a minor application and as such our policy on SuDS would not apply and the LLFA would have no comments to make. However due to the potential pollution risk from a development of this type we would still recommend a sustainable design using good practices for water quality and quantity.
40. *Environment Agency* - object to the planning application, as submitted, because the application includes a petrol filling station with underground tanks and associated infrastructure (pipework and drainage) and the risks to groundwater from the development are unacceptable. The applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed.
41. *Natural England* – Have no objections and state that the development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
42. *The Coal Authority* - raise no objection to the revised proposals on the basis that they remain entirely outside the defined Development High Risk Area.

43. *Seaham Town Council* – No comments received in relation to the revised scheme. However, the Town Council initially objected to the application for a static caravan site, petrol station, drive through café and retail units. The Town Council stated that its location just opposite what will be the new garden village is totally wrong and would spoil not just the aesthetics but the whole ethos of what the garden village is all about with its environmental credentials. This along with the litter generated and the traffic impact are of concern and also the fact that other static caravan sites have proved to generate anti-social behavior and not just accommodate tourists but less desirable visitors who are not just on a holiday by staying long term on the site and involved in crime and drugs. They state that also already have enough cafes, drive throughs and petrol stations in the area already generating too much litter.

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

44. *Spatial Policy* – Comment that the application proposes a Petrol Filling Station with associated retail and a drive thru café, this has been considered against Policy 9 and deemed acceptable in principle. The site of the proposed development is in an environmentally sensitive location prominent on the approach to Seaham on the A182. The site is located within close proximity of the coast and, therefore, consideration will also need to be given to the environmental impacts of this proposed development in the context of CDP Policies 6, 21, 29, 37, 39, 41 and 42.

45. *Ecology* – Note from the Natural England response they are satisfied that no adverse effects on the SSSI and SAC are likely from the proposal and it can be screened out. Given the small scale of the development the LPA would not request the use of the DEFRA metric. However, the applicant would still need to deliver a biodiversity net gain and this would be accomplished via a planning condition that requires the applicant to deliver a landscape scheme/plan showing habitat enhancements e.g. scrub planting, species rich grassland creation on the wider landholding. The submitted Preliminary Ecological Appraisal informed sufficiently, the impact on protected species, and no objections are raised in this respect.

46. *Contaminated Land* – Confirm that they have assessed the available information and historical maps with respect to land contamination. A landfill is identified 158m north of the site and, therefore, a condition is required for a contaminated land risk assessment.

47. *Environmental Health (Noise)* – advise that a technical review has been undertaken of information submitted in relation to the likely impact upon amenity in accordance with the relevant TANs (Technical Advice Notes). It is noted that the information submitted demonstrates that the application complies with the thresholds stated within the TANS, and this would indicate that the development would not lead to an adverse impact. Specifically in relation to the PFS and Drive Thru, the noise impact assessment demonstrated that there was likely to be a low impact upon future sensitive receptors to the south of the A182 and that no specific acoustic mitigation measures would be required. Officers are satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

48. *Environmental Health (Air Quality)* – advise that as the air quality assessment was undertaken when the development was larger, with a greater potential to impact local air quality, it is considered that the current assessment is suitable to accompany the reduced size application and no objections are raised.

49. *Landscape* – The site doesn't lie in an area covered by any national or local landscape designations. An Area of Higher Landscape Value lies to the immediate east. The

higher ground of the ridgetop is relatively prominent in the landscape, being visible from higher ground to the west towards Cold Hesledon / East Farm (including sections of the A182 and bridleway 15), to the south around Kinley Hill and footpaths in that area, and to the north in the Deneside area along the B1287. It is visible at close quarters from Admiralty Way. In views from the adjacent section of the A182 it is screened by topography where the road lies in cutting. Initially, the proposals entailed some substantial modifications to the landform in the north of the site, including the use of retaining walls, to create a development platform and internal access road. They would have entailed widespread smaller modifications to the topography across the site, also entailing the use of retaining walls, to accommodate internal access roads and levelled plots. The layout plan appears to show a section of the roadside hedge removed south of the filling station / drive through. Plans have been amended to show the retaining walls removed.

50. *Trees* – Have no objection from an arboricultural perspective.

51. *Archaeology* – have advised that further archeological evaluation can be secured by an appropriate planning condition, including by way of a phased works condition.

52. *Design and Conservation* - The proposed development area is now confined to a small part of the site, opposite the existing buildings off Admiralty Way. The architectural approach to the petrol filling station and drive-thru unit are as expected for this type of development. There are no objections to the amended proposals from a design and conservation perspective.

53. *Heritage Coast* - had initial concerns relating to landscape but these were related to the withdrawn caravan park.

#### **EXTERNAL CONSULTEE RESPONSES:**

54. *Durham Constabulary (Police Architectural Liaison Officer)* - had initial concerns regarding traffic and anti-social behaviour, however, these concerns were related to the withdrawn caravan park.

#### **PUBLIC RESPONSES:**

55. The application has been publicised by way of site and press notice, and notification letters to neighbouring residents. Five letters have been received as a result of the consultation process.

56. One letter of support has been received that states that the application will be positive in terms of tourism and the local economy.

57. Two letters of objection have been received relating to highway safety, parking, crime and anti-social behaviour (however, these are mostly in relation to the caravan park, which has now been removed from the application).

58. The National Trust raised concerns in relation to the originally submitted scheme in terms of its impact on nature conservation interests and the heritage coast, in particular.

59. CPRE raised concerns in relation to the proposals for static caravans but did not have any objections to the proposals for a petrol station, café and shops.

## **APPLICANTS STATEMENT**

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60. We have worked alongside the Local Planning Authority to deliver an acceptable scheme on this site. The original proposals have been reduced in scale and ambition dramatically to accommodate concerns raised during the course of the application and we now have a scheme that is supported by officers. The proposed Petrol Filling Station and drive thru coffee shop will service users of the A182 and further build on the facilities enjoyed by residential and business users in the area.

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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61. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the principle of development, retail and town centre policy, landscape impact, highways, ecology, land stability, archaeology and flooding, drainage & groundwater.

### The Principle of the Development

#### *The Development Plan*

62. 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 and is therefore relevant to the assessment of any proposals for development of the site. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF.

63. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

64. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. As there is an up to date development plan, paragraph 11 (d) of the NPPF is not engaged.

65. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) 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 case, the specific part of the site that would be developed is considered to be well related to the existing Foxcover Industrial Estate located to the east of the site. Policy 10 states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. In this case, given that the site is, in principle, considered well-related to the settlement and that it would accord with Policy 6, it would in turn accord with Policy 10. The proposals should, therefore, be considered against the specific criteria set out in CDP Policy 6 and based on the criteria below is considered acceptable in principle.

66. Criteria a requires that the proposal is compatible with any existing, allocated or permitted use of adjacent land. The site is located within close proximity of the Heritage Coast and internationally designated sites, and this will be discussed further in the context of Policy 37, Policy 41 and Policy 43. This alongside the comments of specialist officers will allow consideration against this criterion. The site is in close proximity to the permitted Garden Village development. It is considered that the proposed development would not be prejudicial to the Garden Village and its residential uses or village centre community uses.
67. Criteria b guards against coalescence and ribbon development. The consideration of this with regards to its location in proximity to neighbouring settlements and the form and character of Seaham has been assessed and is considered acceptable.
68. Criteria c guards against the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality. Whilst the site is not formally designated, the site is located in close proximity of the Heritage Coast and internationally designated sites.
69. Criteria d requires the proposals to be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement.
70. Criteria e and f relate to highways and transport in terms of highway capacity, highway safety and sustainable transport.
71. Criteria g seeks to guard against the loss of a settlement's or neighbourhood's valued facilities. The proposals do not give rise to any loss of such facilities.
72. Criteria h relates to climate change, including flooding issues. It is noted that the site does not fall within any flood zones and is not at risk from surface water flooding.
73. Criteria i encourages the use of previously developed land. The application site is considered to not constitute previously developed land.
74. Criteria j states that where appropriate, the proposal should reflect priorities for urban regeneration.

#### *Retail and Town Centre Policy*

75. The site is located outside of a town centre as defined on the CDP policies map. The

application proposes a petrol filling station which has associated retail and a drive thru coffee outlet. Policy 9 (Retail Hierarchy and Town Centre Development) of the CDP sets out a retail hierarchy, of relevance to this site, Seaham is identified as a large town centre, Murton is recognised as a local centre. The policy seeks to protect the vitality and viability of all centres within the hierarchy.

76. Policy 9 of the CDP identifies that proposals for main town centre uses, as defined by the NPPF, which are not located within a defined centre will be required to apply a sequential test. This reflects advice within Paragraphs 86 and 87 of the NPPF. Given the site's location, 2.7km from Seaham town centre and 3.5km from Murton local centre, it would constitute an out of centre site and would require a sequential test.

77. The applicant has provided a sequential test, which details at length case law on applying it, in relation to issues such as availability, suitability, and disaggregation. Their analysis which relates to the proposal demonstrates that there are no alternative available sites to accommodate the proposed development. The conclusions are broadly agreeable. There is a clear locational and market requirement for the petrol filling station to be located in a prominent visible roadside location, easily accessible from the main highway network and alongside this the associated retail would clearly not be disaggregated.

78. With regards to the drive thru café, the applicants state that it is different from the traditional high street café, again having the same locational requirements as the filling station. It is accepted that there are no such locations within Seaham town centre or Murton local centre where this could be located.

### *Impact Assessment*

79. The application proposes 654sqm of development that would be considered as main town centre uses. This would be below the threshold in terms of any requirement to assess any impacts on Seaham town centre. The applicant has provided some analysis with regards to Murton local centre; however, it is noted that the threshold of 400sqm relates specifically to retail floorspace and therefore the impact of the drive thru would not need to be accounted for as this element of the proposal does not cross the floorspace threshold. Irrespective of this, it is considered that the offer in Murton local centre would not compete with the proposed development and any retail impact would be minimal.

80. Given the above, it is considered that the application meets the requirements of CDP Policies 6 and 9 and, overall, the proposal is considered acceptable in principle.

### *Landscape impact*

81. Part 12 of the NPPF and CDP Policy 29 seek to ensure good design in new developments. New development should be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement. It should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and also create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.

82. Policy 29 states that all development proposals will be required to achieve well designed buildings and places. Whilst the site is not located within an AHLV, the site is prominent on the landscape approaching Seaham from the west and is also within close proximity of the Heritage Coast and Wider Coastal Zone. Therefore, careful consideration of the proposed design has been required. In addition, Policy 39 states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. It goes on to state that proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects.
83. At the request of the Landscape team, changes have been made to the proposed development to minimise the impact of the scheme on the landscape. These changes saw the original retaining wall removed in favour of a sloping banked arrangement that could be planted and additional tree planting to the western boundary. It is therefore considered that the proposals would accord with Policies 29 and 39 of the CDP.

### Highway impacts

84. Part 9 paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. CDP Policy 21 seeks to ensure that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. New developments should provide for 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.
85. Following comments from the Highway Authority, additional level plans have been submitted which indicate the removal of the junction which was highlighted as a concern. The most recent level drawings depict a 2.4 x 90 metres visibility splay. This area would need to be kept clear in both the horizontal and vertical plane. In addition to the changes that have been incorporated above, a suitably worded condition is requested to require a Construction Management Plan (CMP) to demonstrate how the developer would undertake the works safely, including amongst other items, to avoid depositing mud and debris on the public highway, avoidance of dust, loading/unloading areas, and to reduce vehicle movements at peak times. The CMP must also indicate where workers' vehicles will be parked and proposed traffic management measures. Subject to the above condition and changes to the drawings, the Highway Authority have no objection to the proposals.
86. National Highways previously requested that the applicant provide details regarding the number of pumps associated with the petrol filling station and the size of the drive thru' coffee outlet. The applicant has provided information stating the proposed petrol station will have eight-pumps and the drive thru' coffee outlet comprises 167sqm of floor space. On this basis, National Highways concluded that the proposed development would not have a material, detrimental, impact on the Strategic Road Network.
87. On the basis of the above, National Highways and the Highway Authority have no objections and, therefore, it is considered that the proposals would be in accordance with NPPF part 9 and Policy 21 of the CDP.

## Ecology

88. Part 15 of the NPPF ensures that when determining planning applications, Local Planning Authorities (LPA) seek to conserve and ensure that measurable gains in biodiversity are achieved. CDP Policy 41 seeks to ensure new development minimizes impacts on biodiversity by retaining and enhancing existing diversity assets and features. Proposals for new development should not be supported where it would result in significant harm to biodiversity or geodiversity.
89. Natural England's response states that they are satisfied that no adverse effects on the SSSI and SAC are likely from this proposal. The application is supported by a Preliminary Ecological Appraisal which identifies that the development would not affect protected species. The Ecology team are satisfied with the conclusion in this regard. A condition requiring development to be carried out in accordance with the recommendations set out in the Ecological Appraisal is, however, recommended.
90. Given the small scale of the development, the LPA would not request the use of the DEFRA metric. The applicant will still need to deliver a biodiversity net gain and this could be secured via a planning condition that requires the applicant to deliver a landscape scheme/plan showing habitat enhancements e.g. scrub planting, species rich grassland creation on the wider landholding. On this basis the proposals are considered to accord with Part 15 of the NPPF and Policy 41 of the CDP.

## Archaeology

91. Policy 44 of the CDP seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances. A request was made for a geophysical survey of the site. However, the applicant has provided evidence that the site has previously been stripped and laid to hard core to accommodate the site compound of a previous phase of development nearby. They have requested a condition be imposed with respect to the potential for any remaining archaeology which has been agreed. Archaeology officers have raised no objections in relation to any other heritage assets and it is therefore considered that the proposals would accord with Policy 44 of the CDP.

## Flooding, Drainage & Groundwater

92. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, whilst ensuring that new development does not give rise to increased flood risk elsewhere. CDP Policies 35 and 36 concern water management. All development proposals are required 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. This includes completion of a Flood Risk Assessment (FRA), where appropriate.
93. This application was originally submitted for a much larger area, the static caravan element having since been removed from the scheme. The red line for the application remains the same as the originally submitted application. The development proposed now falls below the thresholds where sustainable urban drainage information is required to accompany an application, or where the Lead Local Flood Authority (LLFA)

is required to be consulted. However, given the presence of a large area of hardstanding proposed as well as the nature of the use, and as recommend by the LLFA, a condition is proposed to ensure that surface water run-off is properly handled, and any filtration of the water required is put in place to address this technical issue.

94. With respect to flood risk, the site is in flood zone 1, the lowest risk level. In relation to the risks to groundwater, the Environment Agency (EA) have objected and requested further information by way of a report. It is considered that this would result in a technical solution being devised that would ensure risk to groundwater is appropriately mitigated and controlled. The report would dictate the specific design solution needed for the fuel tanks themselves and, in the circumstances, it is considered appropriate to impose a planning condition requiring the details to be submitted and agreed before development commences. A pre-commencement condition of this nature would follow the guidance set out in PPG. Accordingly, it is considered that the proposals would accord with Part 14 of the NPPF and Policies 35 and 36 of the CDP.

#### Other matters

95. The Coal Authority raises no objection to the revised proposals on the basis that they remain entirely outside the defined Development High Risk Area, and the proposals would, therefore, comply with CDP Policy 32 in this regard.

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## CONCLUSIONS

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96. Following the amendment of the scheme and the submission of additional information it is considered that the proposals are acceptable. The scheme now proposed would primarily serve passing traffic rather than generating additional trips. The provision of a drive thru coffee facility with a Petrol Filling Station is an increasingly common offering at such facilities and it is considered that the scheme would comply with relevant CDP policies, subject to appropriate planning conditions. The responses made by the public have been addressed in the above report. The application site is therefore considered an appropriate location for the uses proposed and the application is, accordingly, recommended for approval.

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## RECOMMENDATION

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That the application is **APPROVED** subject to following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in below:

L021135 – 001 Location Plan

L021135 – 003 Rev B Proposed Site Plan

L021135 – 004 PFS Plan

L021135 – 005 PFS Elevations

L021135 – 006 DT Café Plan

L021135 – 007 DT Café Roof Plan

L021135 – 009 DT Café Elevations

L021135 – 010 Section A-A

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 21, 29, 31, 34 and 35 of the County Durham Plan and Parts 2, 4, 6, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.*

3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

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

4. Before the development hereby approved is brought into operation details of all means of enclosure of the site on roadside boundaries shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter and retained for the lifetime of the development.

*Reason: In the interests of the visual amenity of the area and highway safety, to comply with Policies 6, 29 and 21 of the County Durham Plan and Parts 9 and 12 of the National Planning Policy Framework.*

5. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study). If the phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

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

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

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

7. Four EV charging points must be erected in a location to be agreed in writing with the Local Planning Authority and along with the secure cycle parking shown on the approved plans, made available when the use is brought into operation and retained thereafter.

*Reason: In the interests of sustainable development and to comply with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

8. No development shall commence until a scheme of foul and surface water drainage, including treatment of water, has been submitted to and agreed in writing by the Local Planning Authority. Development shall thereafter take place in accordance with the agreed scheme.

*Reason: In the interests of sustainable drainage as required by Policies 6, 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.*

9. Before the development hereby approved is brought into operation a detailed scheme for the operation of lighting proposed on the site including hours of use must be submitted to and approved in writing by the Local Planning Authority and thereafter operated in full accordance with said written agreement.

*Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

10. Prior to the commencement of any part of the development or any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed, as a minimum this should include, but not necessarily be restricted to, the following:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014
- Details of methods and means of noise reduction
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

- 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.

*Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

11. All elements of the development hereby approved must only be operated within the hours 0600hrs until 2300hrs inclusive, 7 days a week.

*Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

12. All sound attenuation measures detailed in the noise assessment 'Land Off Admiralty Way, Seaham- Noise Impact Assessment' reference 8532.1 dated 1 December 2020 Rev. A produced by Apex Acoustics Ltd, published 4 December 2020 are fully implemented prior to the beneficial occupation of the development and permanently retained thereafter.

*Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

13. Before the development hereby approved is brought into operation a detailed habitat planting plan will be submitted to and approved in writing by the Local Planning Authority. The planting plan will include scrub planting and species rich grassland creation on the wider landholding, in order to achieve a biodiversity net gain. Thereafter development shall take place in strict accordance with the agreed planting plan.

*Reason: To conserve protected species and their habitat in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

14. Notwithstanding the information shown on the submitted plans, a scheme of surface water drainage, prepared by a competent and appropriately qualified person, with treatment of water shown, must be submitted to and agreed in writing with the Local Planning Authority before the surfacing of the site commences. Thereafter development shall take place in strict accordance with the agreed scheme.

*Reason: In the interests of sustainable drainage as required by Policies 6 and 35 of the County Durham Plan and Part 14 of the National Planning Policy Framework.*

15. No development shall commence until a hydrogeological risk assessment has been submitted to and in consultation with the Environment Agency, approved in writing by the Local Planning Authority. The assessment shall demonstrate that the risks to groundwater posed by this development will be satisfactorily managed. This shall include an assessment of the depth to the water table in relation to the tanks, potential pathways, attenuation, take into account other water features in the area and, the potential impacts. Thereafter development shall take place in strict accordance with the agreed scheme and be retained for the lifetime of the development.

*Reason: To demonstrate that the risks posed to groundwater can be satisfactorily managed in line with Paragraph 174 of the National Planning Policy Framework.*

16. No development shall commence until a Written Scheme of Investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

*Reason: To safeguard any archaeological interest in the site, and to comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.*

17. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

*Reason: To comply with Policy 44 of the County Durham Plan and paragraph 205 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.*

18. The development shall not be brought into use until a scheme for litter management has been submitted and agreed in writing by the Local Planning Authority. The development shall be operated in accordance with the agreed scheme in perpetuity.

*Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

19. The development hereby approved shall be carried out in accordance with the recommendations at section of the Preliminary Ecological Appraisal (Delta Simons, October 2020).

*Reason: To conserve protected species and their habitat in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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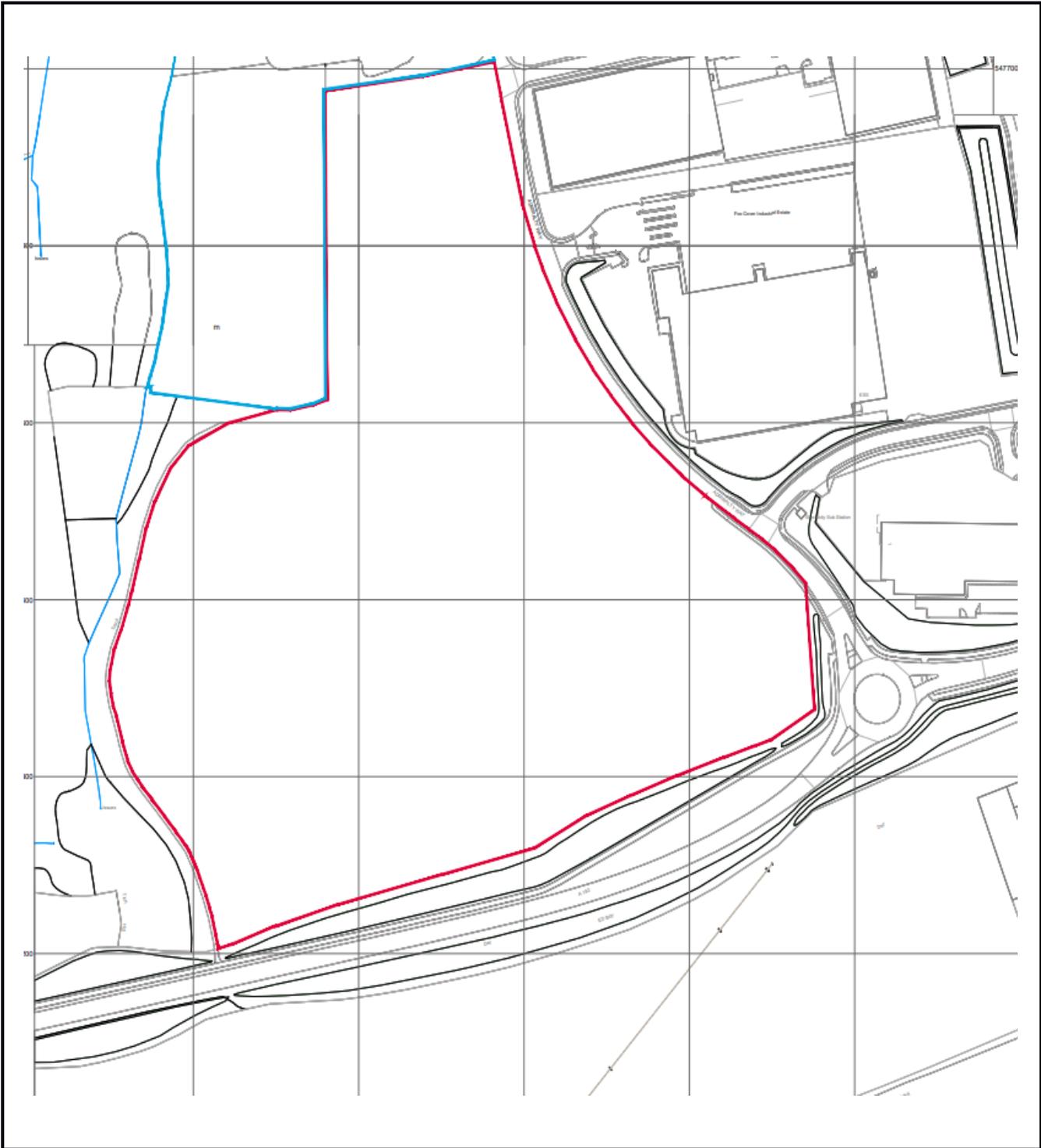
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

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## **BACKGROUND PAPERS**

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



**Planning Services**

DM/20/03591/FPA

Erection of a petrol filling station and drive thru' coffee outlet (Class E), along with access, car parking, drive thru' lane, external seating area, refuse stores, hard and soft landscaping and associated works - Land West Of Units 1-3 Admiralty Way Seaham

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**Comments**

**Date** 4<sup>th</sup> October 2022

**Scale** NTS