

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/00367/FPA
FULL APPLICATION DESCRIPTION:	Ground stabilisation works to support the East Coast Main Line comprising sheet and bored piling; drainage improvement; new headwalls to the River Browney; landscaping and new vehicular accesses from the B6300
NAME OF APPLICANT:	Network Rail Infrastructure Ltd
ADDRESS:	Land north and east of Burnigill Cottages, Burnigill, Meadowfield DH6 5JJ
ELECTORAL DIVISION:	Brandon
CASE OFFICER:	Jennifer Jennings Senior Planning Officer 03000 261059 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site consists of three parcels of land located to the north and east of Browney Lane (B6300) and close to the East Coast Mainline rail track, known as ECM5. The sites are located in open countryside, with one section running adjacent to the B6300 consisting of grazing land and the remaining two sections of land adjacent to the River Browney and largely consisting of some planting and open grassland.
2. The general area is referred to as the 'Browney Curve Embankment' and contains two electrified tracks for the mainline trains. It runs in a curve from north west to south east, following the line of the B6300. The land west and south of the B6300 is relatively flat, but to its north and east there is a significant drop in levels of up to 12 metres, starting at the roadway sloping steeply down towards the railway and then onto the River Browney. Slope gradients on the land between Browney Lane and the railway, referred to as the Upper Slope, vary across the site, but are generally approximately a 1:3 gradient, whilst the slope between the railway and river, referred to as the Lower Slope, is less steep at a 1:5 gradient.
3. The site is wholly contained within an Area of Higher Landscape Value (AHLV), whilst the Lower Slope part of the application site is located within the Green Belt as well as Flood Zones 2 and 3. A small section of the southern edge of the site falls within the Sunderland Bridge Conservation Area. The Burn Hall Conservation Area and Grade II Listed Park and Garden of Special Historic Interest abuts the application site to the north, the River Browney providing a barrier between the two.

The Proposal

4. The application sites form part of a larger programme of works by Network Rail to carry out essential embankment stabilisation works to the hillside carrying the ECM5 railway line. The area has been prone to landslips and varying degrees of movement and previous remediation work has not prevented further issues with land slippage in the area. Funding has now been secured to undertake a more permanent solution, through installation of bored and sheet piles, new drainage, reprofiling of the hillside and extensive planting of trees to assist with removal of water within the hillside.
5. It should be noted that the majority of the works proposed benefit from permitted development rights under Part 18a of the Town and Country Planning (General Permitted Development) Order 2015 as amended. Part 18a applies to development when it is authorised by a local or private Act of Parliament which designates specifically the nature of the development and the land upon which it may be carried out. The railway line in this case was authorised by the North Eastern Railway (Pelaw and other Branches) 1865 Act of Parliament which set out the Limits of Deviation within which the railway was to be constructed. These defined Limits extend some 120 metres to 170 metres either side of the railway line and all works within these Limits benefit from this permitted development right to undertake works associated with the railway line. It is noted that all of the piling works along with the majority of the drainage works and hillside reprofiling would take place within the defined Limits.
6. Some elements of the scheme fall outside these defined Limits and are the subject of this planning application divided into three parcels of land. One section of the application site is located on the Upper Slope, directly abutting the eastern edge of the B6300, and will be subject to some minor engineering works to facilitate the main piling and drainage works located just east of this land within the defined Limits. Within the northern most section of this part of the application site, a temporary compound site is also to be created utilising an existing field access from the road. This compound is intended to be a secondary compound area. Final restoration works to this part of the site would consist of new tree planting in the area.
7. The two other sections of land forming part of the application site are located on the lower slope adjacent to the River Browney. These areas of land would be subject to some minor engineering works and would also include installation of two headwall structures around existing drainage outfalls. The remainder of the riverbanks would be subject to soft engineered mitigation measures to limit erosion to the riverbank by tree planting and use of living or dead tree stems, roots and branches to cushion the bank from the force of the river.
8. A small section of the application site would adjoin the B6300 at the south eastern edge of the works, where it is proposed to formalise an existing field access and track leading down to a proposed main compound area. It should be noted that the compound area and a large section of the track would fall within the defined Limits and outside the scope of this application.
9. The application is being reported to the Central and East Planning Committee as it is a major development with a site area in excess of 1 hectare.

PLANNING HISTORY

10. There is no relevant site history relating specifically to the application site, however, adjacent to the site a permission was granted in 2007 for the construction of a temporary

access road and associated fencing for works between the B6300 and Browney Sewage Treatment Works.

PLANNING POLICY

NATIONAL POLICY

11. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
12. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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.

18. *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.
19. *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.
20. *NPPF Part 13 Protecting Green Belt Land* - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt land serves 5 purposes; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
21. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
22. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
23. *NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
24. *NPPF Part 17 - Facilitating the Sustainable Use of Minerals* - It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

25. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; design process and tools; determining a planning application; flood risk; healthy and safe

communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan

26. *Policy 10 – Development in the Countryside* - States that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside. Provision for infrastructure development includes; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity.
27. *Policy 20 - Green Belt* - development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
28. *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.
29. *Policy 24 - Provision of Transport Infrastructure* - advises that new and improved transport infrastructure will be permitted where; it is necessary to improve highway/public transport infrastructure; minimises harmful impacts; provides provision for all users whilst also either supporting economic growth, enhancing connectivity or accommodating future development sites.
30. *Policy 25 - Developer Contributions*. Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
31. *Policy 26 – Green Infrastructure*. States that development will be expected to maintain and protect, and where appropriate improve, the County’s green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure

may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

32. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to 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).
33. *Policy 31 - Amenity and Pollution.* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
34. *Policy 32 - Despoiled, Degraded, Derelict, Contaminated and Unstable Land.* Requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
35. *Policy 35 - Water Management.* Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
36. *Policy 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.
37. *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. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
38. *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.

39. *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.
40. *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.
41. *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:

42. The application site does not fall within a Neighbourhood Plan area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

43. *Environment Agency* – Initially objected to the application, raising concerns over insufficient information in relation to ground raising within flood zones 2 and 3 and potential flood risks. An updated Flood Risk Assessment document was submitted confirming no ground raising works. On this basis the Environment Agency removed their objection, but requested a series of conditions and informatives be included on any permission granted.
44. *Highway Authority* – Support the proposals, noting that discussions have already taken place between the applicants and the Highway Authority.
45. *Drainage and Coastal Protection* – Proposals do not appear to result in any additional surface water discharge to the river, in which case no objection is offered.

INTERNAL CONSULTEE RESPONSES:

46. *Durham County Council Landscape Section*- The Officer notes that the site forms part of the Area of Higher Landscape designation and would therefore be sensitive to development proposed. The works are recognised as being of importance to the safety

of a major strategic rail route. Slight adverse visual effects are expected however tree planting proposed would help mitigate over time. Further details on specific tree planting are therefore required to be secured through condition.

47. *Durham County Council Trees Section* – No objections raised with regards the proposed tree works and replacement planting proposed.
48. *Durham County Council Heritage and Design Section* - The Officer notes nearby heritage assets, in particular the Sunderland Bridge Conservation Area to the south east and the Burnhall Conservation Area to the north. The works relate to stabilisation works associated with the long established railway line. Whilst the works would bring about change to the local environment its impacts on the heritage assets are considered minor and not at a level that would create harm to their significance.
49. *Durham County Council Ecology Section* – Officers sought additional information in relation to roosting bats. Upon receipt of updated information, no objections subject to conditions.
50. *Environment, Health and Consumer Protection (Contaminated Land)* – Advise a full contaminated land condition be attached for reports to be submitted pre commencement of development.
51. *Environment, Health and Consumer Protection (Nuisance Action Team)* – Comment that whilst the Construction Management Plan (CMP) is limited in relation to noise and dust controls, it does refer to adhering to BS5228 in relation to noise and vibration, therefore it would suffice. The CMP also includes sufficient detail in relation to control of lighting. The daytime hours appear reasonable and it is also noted that there would be a need for works during the night, but given the nature of the railway this would be necessary. Given the location of the site and the fact that the majority of the works will be undertaken outside of LPA control, conditioning the CMP as an approved document would be beneficial. Should problems arise, there are other legislative means to apply controls in relation to noise.

PUBLIC RESPONSES:

52. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents. No comments or representations were received.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QU6BIIGD0BK00>

APPLICANTS STATEMENT:

53. The proposed stabilisation works are essential to prevent further landslips which are affecting the stability of the electrified railway line in this location. Since its construction in 1872, the railway here has suffered from varying degrees of movement. The problem is caused by the instability of the naturally occurring hillside upon which it sits. This has resulted in, on occasion, the imposition of speed restrictions, emergency stabilisation and realignment works.

Whilst in more recent times ad-hoc works have been undertaken to address the issue, none of the measures have completely prevented further movement and funding (circa £15) is now available to implement the permanent solution. The scheme would ensure

that the East Coast Mainline can operate safely and reliably, and therefore offers great public benefit.

The works have been designed in the most sympathetic way possible, taking into account the sensitive nature of the landscape in the area whilst recognising the environmental and ecological constraints present. It should be noted that whilst the works within the Limits of Deviation are permitted development (for which planning permission is not required), the scheme has been treated in a holistic manner, which the proposed planning conditions demonstrate.

We therefore respectfully ask that this application be approved in line with the Officer's recommendation, subject to the recommended planning conditions.

PLANNING CONSIDERATIONS AND ASSESSMENT

54. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should also be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, landscape and visual impact, residential amenity, highway safety and access, ecology and flooding.

Principle of the Development

55. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area and the starting point for the determination of this planning application. The NPPF is a material planning consideration. 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.
56. As noted above in the introductory section, part of the application site on the Lower Slope falls within the Green Belt. Policy 20 of the CDP is of relevance and states that proposals within the Green Belt will be determined in accordance with National Planning Policy as detailed within Section 13 of the NPPF.
57. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 138, that the Green Belt serves five purposes, including preventing urban sprawl and merging of towns, protecting the countryside from encroachment, preserving the setting of historic towns and assisting urban regeneration. Paragraph 149 states that the construction of new buildings within the Green Belt should be considered as being inappropriate development, except in specific, identified instances, whilst Paragraph 150 identifies certain other forms of development, which includes at para. 150b) engineering operations, as also being not inappropriate (i.e. appropriate) in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.
58. The proposed works on site are considered to fall within the exception under para. 150b). The works proposed within the application site areas would consist of some land clearance and engineering works to facilitate the larger scale stabilisation and drainage

works within the defined Limits, the latter benefiting from permitted development rights. Restoration works within the application site area would see the land levels returned to pre-existing levels, with additional planting and river bank works to prevent erosion. Overall, the scale of works within the application site areas would be considered to preserve the openness of the Green Belt and would not conflict with any of the five purposes of including land within this designation.

59. Those parts of the proposals that fall within the Green Belt therefore present no conflict with Green Belt policy.
60. Policy 10 in relation to development in the countryside is also relevant. This states that development will not be permitted unless allowed for by specific policies in the plan or where the proposal relates to one or more of a number of exceptions. One such exception relates to development necessary to support essential infrastructure where the need can be demonstrated for that location. In addition, Policy 24 in relation to provision of transport infrastructure would be considered a specific policy within the plan that would be permissive of development in countryside locations. This policy supports improved transport infrastructure where it is necessary to improve the existing public transport infrastructure and makes safe and proper provision for all users which prioritises the movement of public transport. As part of this policy, such infrastructure should also meet at least one of the following criteria: support economic growth, enhance connectivity within the County or region or accommodate future development sites. In the case of the current application, the wider works are considered essential infrastructure works to maintain the east coast mainline railway that connects nationwide and provides necessary infrastructure for movement of people and freight.
61. Both Policies 10 and 24 also require that any works adhere to general design principles, with Policy 10 seeking to ensure development does not give rise to unacceptable harm to the character of the area, amongst other requirements. Similarly Policy 24 requires that development minimises and mitigates any harmful impact upon the natural environment and amenity of communities including by incorporating green infrastructure. These aspects will be considered further on in the report.
62. Subject to these further considerations, the principle of the development is considered to accord with relevant Policies 10, 20 and 24 of the CDP and part 13 of the NPPF.

Impact on the character and appearance of the area

63. Key policies in consideration of impacts on the amenities of the area include Policies 29 (Sustainable Design) and 39 (Landscape), given the AHLV designation, as well as Policy 44 (Historic Environment) with nearby heritage assets. Further design principles are highlighted within Policies 10 and 24 as already outlined above.
64. Policy 29 requires that development contributes positively to an area's character and landscape features with development proposals required to respond creatively to topography and to existing features of landscape interest and wildlife habitats. Policy 39 states that development affecting AHLV will only be permitted where it conserves and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. A small section of the development falls within the Sunderland Bridge Conservation Area whilst the sections by the riverbank abut the Burnhall Conservation Area. Policy 44 relating to the Historic Environment requires that development sustains the significance of designated heritage assets, including any contribution made by their setting.
65. The parts of scheme subject to this planning application involve minor engineering works to facilitate the wider programme of works contained within the defined Limits of Deviation, that benefit from permitted development rights. Whilst the main body of works

will result in reprofiling of the hill nearest to the railway tracks, it is noted outside this area of land within the application site boundaries, finished land levels would not be significantly altered.

66. Works to be included within the application site include creation of a secondary compound to the north of the site, utilising an existing hard standing area associated with the original line of the B6300 road. The primary access for works vehicles would take place to the south of the site, with the existing farm access formalised with hardstanding area. This access and a small section of the track fall within the application site and also within the Sunderland Bridge Conservation Area. The remaining structural works involve installation of two new flexible headway by the riverbanks at existing drainage outfall points. The headways would consist of gabion baskets structures with clamp barriers on top, at a maximum of 1.5 metres in height. These structures would be set into the ground and surrounded with back fill material to camouflage their appearance within the immediate area. Other works to the riverbanks include soft engineered mitigation measures to limit erosion to the riverbank by tree planting and use of living or dead tree stems, roots and branches to cushion the bank from the force of the river.
67. In their assessment of the works, trees section raised no objection, however, landscape section considered that there would be slight adverse landscape and visual effects locally and a temporary harm to the AHLV. The applicant comments that the location of the work is determined by the position of the railway line and there would be no opportunity to carry out the works in a less sensitive location. They further comment that whilst the piling, associated caps and river headwalls will introduce manmade features into the landscape, they will be largely invisible at surface level. In any event the site is viewed within the context of the existing railway land and its overhead line equipment, with this corridor of public transport infrastructure forming a prominent existing feature within the landscape. In this regard, there are clear noted public benefits associated with the works that would outweigh the harm identified. In addition, the landscape effects would be temporary and the tree planting proposed, as landscape mitigation, would diminish the harm created over time such that a refusal under Policy 39 could not apply. A condition would be applied for the northern compound contained within the red line boundary to be reinstated within 3 months of completion of works.
68. The application area on the east side of the railway line is within the boundary of Sunderland Bridge Conservation Area with the west part within in its setting, and both areas within the setting Burn Hall Conservation Area, and the Burn Hall GR11 listed Park and Garden of Special Historic Interest. Listed Buildings and scheduled monuments are also noted with 1-2 kms of the site. Local authorities have a duty to preserve or enhance the Conservation Area as requested by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same act requires a similar duty to preserve or enhance Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
69. Design and Conservation assessed the details and commented that the proposal would be firmly in the context of the existing major railway infrastructure, a historic intervention into the landscape of the 1860s, and a prominent man-made industrial feature since this time. From Browney Lane the land falls away to the river so it would be anticipated that the visual impact of the change would not be significant to detract from the visual quality of the views towards the heritage assets. There would be no anticipated impacts in terms of views out from the Conservation Areas, the railway line being visually shielded by the topography and tree coverage. There would be a physical change to Sunderland

Bridge CA by reason of the formalised new access at the existing field gate but not one that would be harmful to its significance.

70. Given the above, plus how broad in scale the heritage assets are, the overall impact would be judged as being minor and not at a level that would create harm to the designated heritage assets significance nor setting in accordance with NPPF Section 16 and County Durham Plan Policy 44 and Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
71. A condition will be applied for a full detailed schedule of landscape planting to ensure that appropriate species are introduced into the area. Subject to this, the proposals are considered to accord with requirements set out in policy 10, 24, 29, 29 and 44 of the CDP.

Impact on residential amenity

72. Policy 10 states that development should not impact adversely upon residential or general amenity. Policy 24 requires development to minimise and mitigate any harmful impact upon the amenity of local communities. Policy 29 seeks for development to provide high standards of amenity and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
73. 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.
74. The majority of the significant engineering works would take place within the defined Limits of Deviation and therefore fall outside the scope and control of this planning application. In discussion with the Environmental Health officer, he confirmed that any issues with noise including vibration and disturbance can be dealt with through the Environment Protection Act 1990 as a Statutory Nuisance. There is also an option under Section 60 of the Control of Pollution Act 1974 which grants powers to the local authority to control noise from construction sites, which can be done by imposing restrictions on the works to ensure noise levels are controlled with respect to any noise sensitive premises nearby. Operators would have a duty to follow BS 5228 Code Parts 1 (Noise) and 2 (Vibration) in relation to control of noise and vibration on construction and open sites.
75. The site is largely isolated within open countryside with nearest residential properties at High Burnigill which is adjacent to the site area and Burnigill Farm, approximately 120 metres south. Beyond this, nearest properties are in excess of 500 metres away from the site. An EIA Screening assessment document acknowledges this noting noise sensitive locations. Also in support of the scheme an Outline Construction Management Plan has been submitted, identifying adherence to BS5528 code of practice. This plan also notes hours of working which are expected to be 0800 – 1800 Monday to Friday. However they further highlight that night time working, specifically Saturday nights 2100-0900, will be required due to access restrictions of working on the railway, where 'possessions' of the track will be required in order to facilitate aspects of the project that could affect the safe operations of the railway. Night-time operations would take place within the defined Limits area and given the nature and necessity of the works would be deemed reasonable.

76. Whilst it is accepted that the works would have noise implications, the location of the works including the main compound area would be located downhill from the B6300 and would therefore be screened by the topography, which would also help to reduce, to a degree, noise impacts. Neighbour notification letters were sent out to all residents within 500 metres of the site and no comments or objections were received. A condition can be applied to request adherence to the Outline Construction Management Plan and Environmental Health are agreeable to this. As previously stated, however, the works within the defined Limits are in any case outside the control of this application, but given the existence of legislative powers to intervene. should issues arise during works, and the works themselves being of a temporary nature with no new impacts in terms of noise post remediation works, it is considered that the amenities of nearest residents are suitably protected in line with relevant policies in this regard.

Highways Safety and Access

77. 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. NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, 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.
78. As noted previously, two existing field accesses are to be formalised to allow access to two temporary compounds within the works site area. The northern most compound, intended as a secondary base, would exist on an existing hardstanding associated with the original B6300 road layout, which is now out of use and contained behind fencing. It is noted from the plans, that main access to this compound is intended from within the site along a temporary route to allow access to works vehicles as and when required within the site. No detailed drawings were provided of how access from the B6300 would be provided but a condition can be applied seeking these details.
79. The main compound would be accessed from an existing field gate to the south of the site. A more detailed plan was submitted indicating visibility splays as well as a sufficient length of track to allow any truck accessing the site sufficient space to be wholly off the carriageway when accessing the site. The track itself would be upgraded in order to handle large trucks, by means of cut and fill operations as well as new surfacing. In general, the works can be suitably accommodated in this location. The intention is to retain this southern access permanently for future access to allow railway maintenance works as required. Highways assessed the details and raised no objections. A condition can be applied seeking detailed drawings in relation to the access as well as further details on surface materials.
80. Overall, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 21 of the CDP as well as Part 9 of the NPPF.

Ecology

81. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. Policy 43 (Protected Species and Nationally and Locally Protected Sites) states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse

impacts 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

82. No parts of the application sites are located within any national or local wildlife designations, although there exists across the River Browney an ancient woodland and local wildlife site referred to as North Wood, within the Burnhall estate. A detailed Preliminary Ecological Appraisal and Biodiversity Assessment were submitted in support of the application. Whilst these were found to be acceptable, further information was required in relation to roosting of bats within existing trees. A further survey report was subsequently provided which found that foraging activity was captured at the site, indicating that bats may be roosting within neighbouring trees. As such, a recommendation was put forward for compensatory roosting boxes to be installed as part of the scheme. A condition will be applied to ensure that details are provided and the works implemented within a suitable timeframe.
83. Other details on ecology within the River Browney were picked up by the Environment Agency who sought the imposition of conditions including details of a Construction Environmental Management Plan to be submitted with details relating to sediment management and protected species plan, as well as management of invasive species and a habitat creation plan in relation to woodland and meadow habitats to be created. The applicant was notified of the requirements set out and is agreeable to conditions in this regard.
84. Subject to the imposition of conditions as outlined above, the proposals are considered to accord with the requirements of policies 41 and 43 of the CDP and part 15 of the NPPF.

Flood Issues

85. 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. Part 14 of the NPPF also provides detailed advice on flooding stating that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
86. Two sections of the application site are located within Flood Zones 2 and 3. A detailed Flood Risk Assessment (FRA) was submitted in support of the proposals. The Environment Agency objected to this original submission on the basis that insufficient information was provided. An updated document was provided clarifying that no ground raising works would be undertaken with further details provided in relation to riverbank strengthening works. In general it is acknowledged that the hill side stabilisation works would help to prevent further land slippage and thus mud and debris blockage of the River Browney. The Environment Agency removed their objection subject to a condition for strict adherence to the updated FRA.
87. Subject to the imposition of this condition, the proposals are considered to accord with the requirements set out in policy 35 and part 14 of the NPPF.

Other Issues

88. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
89. Details were provided in relation to historic landfill use within a section of the application site. Contaminated land section reviewed the information provided and agreed with the findings, requiring a full suite of contaminated land conditions be applied to the scheme. Subject to this the proposals would accord with policy 32 in relation to land contamination.

CONCLUSION

90. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
91. The proposals have been identified as forming part of essential ground stabilisation works associated with the east coast mainline railway and are considered acceptable in principle in line with policies 10, 20 and 24 of the CDP and Parts 9 and 13 of the NPPF. Impacts in terms of amenities and highway safety, as well as ecology and flood risk have also been considered and subject to conditions the proposals are considered to accord with policies 10, 24, 21, 29, 39 and 44 of the CDP and Parts 12, 14, 15 and 16 of the NPPF and requirements as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990.
92. The application has generated no public interest. Given the above considerations, it is considered that proposals are acceptable and the application is recommended for approval.

Public Sector Equality Duty

93. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Plan	Drawing No.	Date Received
Flood Risk Technical Note Rev B02	W11365-PFZZZZ-RP-D-0001	27/04/22
Location Plan 1:2500	0055418	09/02/22
Location Plan 1:5000	0055418	09/02/22
Browney Curve Land Access Plan		09/02/22
Drainage Condition Plan with Proposed Remediation Sheet 1 of 2	DW11365G057 Rev D	09/02/22
Drainage Condition Plan with Proposed Remediation Sheet 2 of 2	DW11365G058 Rev D	09/02/22
General Arrangement Plan South Sheet 3 of 3	DW11365G123 Rev B	09/02/22
Drawing Cover Page	DW11365G120 Rev B	09/02/22
General Arrangement Plan Sheet 1 of 3	DW11365G121 Rev A	09/02/22
General Arrangement Plan North Sheet 2 of 3	DW11365G122 Rev A	09/02/22
General Arrangement Sections	DW11365G126 Rev A	
Tree Planting	DW11365G131 Rev A	
Additional Elements	DW11365G132 Rev A	
General Arrangement Proposed Site Access	DW11365G138 Rev P02	

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 10, 21, 24, 29, 39 and 43 of the County Durham Plan and Parts 9, 12, 14 and 15 of the National Planning Policy Framework.

3. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to, and agreed in writing by, the local planning authority and implemented as approved.

The CEMP plan shall include the mitigation recommendations made in the Environmental Impact Assessment Screening Report (Ref: ECM5 62.0934-62.1438), the Preliminary Ecological Appraisal (dated November 2020), the Flood Risk Technical Note and the Biodiversity Assessment (dated March 2021) and should include as a minimum:

- Sediment management and pollution prevention plan
- Protected species plan
- Biosecurity and invasive species management plan
- Habitat creation plan detailing the establishment and ongoing management of the woodland and meadow habitats to be created as detailed in the Biodiversity Assessment
- Landscape plan as referenced in the Environment Impact Assessment (EIA) (p.27)

Reason: To protect riparian habitats during construction and avoid detrimental ecological impact to the River Browney or the River Wear downstream in accordance with policies 35, 41 and 42 of the County Durham Plan and Paragraphs 174 and 180 of Part 15 of the NPPF.

4. No development should take place until a scheme detailing the proposed piling has been submitted to, and agreed in writing by, the local planning authority. The piling scheme shall include:

- o Confirmation of the method(s) of piling used;
- o The likely timing, duration and location(s) of the work; and
- o Details of the measures to be put in place to minimise any impacts on fish.

Reason: To protect migratory fish in accordance with policies 35, 41 and 42 of the County Durham Plan and Paragraphs 174 and 180 of Part 15 of the NPPF.

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 suitable for use, in accordance with Policy 32 of the County Durham Plan and 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 Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

7. Within six months of commencement of development, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc.
- Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

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

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

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

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

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

Replacements will be subject to the same conditions.

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

9. Notwithstanding the details shown on the approved plans, no development shall commence in relation to the construction of the access to the south east of the site until precise details showing the improved access with the B6300 adopted highway, as well as details on surface materials are 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 interest of highway safety and to comply with Policy 21 of the County Durham Plan.

10. Notwithstanding the details shown on the approved plans, no development shall commence in relation to the construction of the access to the north of the site until precise details showing the improved access with the B6300 adopted highway as well as details on surface materials are 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 interest of highway safety and to comply with Policy 21 of the County Durham Plan.

11. The development hereby approved shall be carried out in accordance with the submitted flood risk assessment (titled: Flood Risk Technical Note; ref: W11365-PF-ZZ-ZZ-RP-D-0001; Rev B02; dated 27/04/22) and the following mitigation measures it details:

-There will be no ground raising within flood zones 2 or 3.

These mitigation measures shall be fully implemented in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent an increase in flooding elsewhere by ensuring that floodplain capacity is not reduced in accordance with Policy 35 of the County Durham Plan and Part 14 of the NPPF.

12. Within 6 months of commencement of development on site, details of bat boxes and their proposed location in line with recommendations outlined in section 5 of the Nocturnal Bat Activity Surveys - Final Report received 12 August 2022 shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented within one month of completion of stabilisation works.

Reason: To conserve protected species and their habitat in accordance with Policies 41 and 43 of the County Durham Plan and Section 15 of the NPPF.

13. No development shall take place unless in strict accordance with Section 5 Conclusion and Recommendations detailed within the Nocturnal Bat Activity Surveys -Final Report July 2022 by Story Contracting received 22 August 2022, including precautionary measures outlined and provision of compensatory roosting features including bat boxes.

Reason: To conserve protected species and their habitat in accordance with Policy 43 of the County Durham Plan and paragraph 175 of the NPPF.

14. No development shall take place unless in strict accordance with the Outline Construction Management Plan received 9 February 2022, including details on working hours, communication and Dust, Noise and Vibration.

Reason: In the interest of protecting amenities of nearby residents and to comply with Policies 29 and 31 of the County Durham Plan.

15. Notwithstanding any approved details within the landscape plan to be submitted as part of condition 7, within 3 months of beneficial completion of the wider railway maintenance works, the northern compound annotated within the red line application site boundary shall be removed and the land reinstated to its former condition.

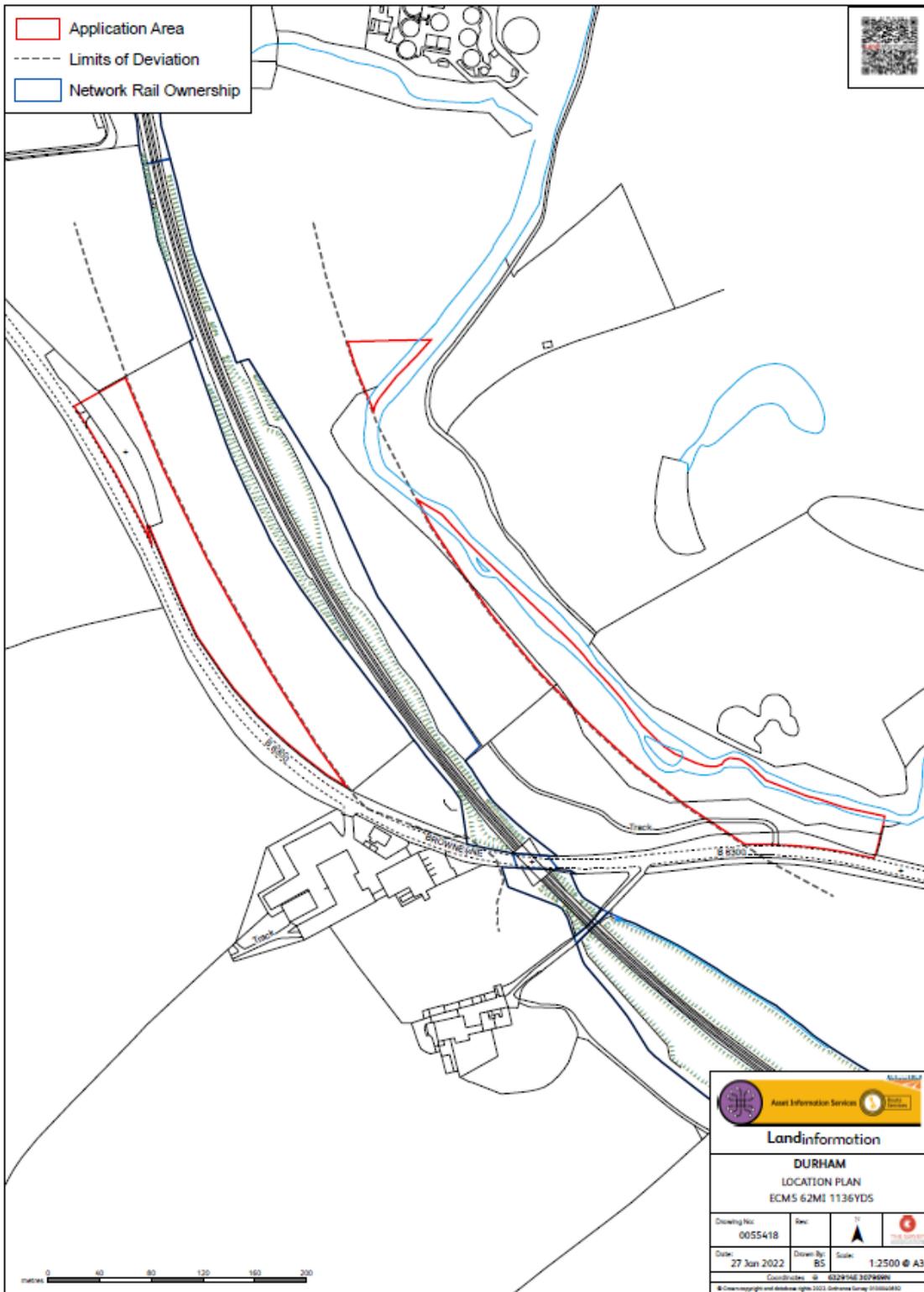
Reason: in the interest of protecting the amenities of the area and to comply with policy 29 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

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



Planning Services

Ground stabilisation works to support the East Coast Main Line comprising sheet & bored piling; drainage improvements; new headwalls to the River Browney; landscaping and new vehicular accesses from the B6300
 Land North And East Of Burnigill Cottages, Burnigill Meadowfield DH6 5JJ
 Ref: DM/22/00367/FPA

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Date 11 October 2022

Scale Not to Scale