

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/03271/FPA
Full Application Description:	Demolition of existing industrial building and erection of a retail unit (Class E) with associated car parking, hard and soft landscaping and associated works
Name of Applicant:	Aldi Stores Ltd.
Address:	Land to the north of Mill Road, Langley Moor, Durham, DH7 8HL
Electoral Division:	Brandon
Case Officer:	Gemma Heron (Senior Planning Officer) 03000 263 944 gemma.heron@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to an existing industrial building and associated land within the Langley Moor and Littleburn Industrial Estate within Langley Moor. The site is accessed via Mill Road to the immediate south where there is existing on-street parking available for the building. In addition to this, the site includes a small parcel of land to the immediate west of the application site, next to the A690 which is currently open land and in Council ownership. To the west of the application site are residential properties, and to the north, south and east there are both residential properties alongside the continuation of the Industrial Estate.
2. In terms of planning constraints, the site is within the Langley Moor and Littleburn Industrial Estate which is a protected employment site within the County Durham Plan (CDP). The site is also located within the identified Coal Resource Area as designated by Policies 53 and 56 of the CDP.
3. The site is located approximately 350 metres outside of the designated Langley Moor Local Centre which is located to the north of the site. The Durham City Air Quality Management Area Boundary is located approximately 1350m to the

northern site boundary. The site is not within a Conservation area and there are no listed buildings within the surrounding area which the development would impact upon. There are no landscape designations on the application site, and the site lies outside of the Green Belt.

4. The application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is considered that the development is not 'EIA development' and therefore no Environmental Statement is required to be submitted in support of the application.

The Proposal

5. Full planning permission is sought for the demolition of the existing industrial building and the erection of a retail unit (Class E), with associated car parking, hard and soft landscaping and associated works.
6. The retail unit would approximately measure 71 metres by 36 metres, with a mono pitched roof to an approximate height of 6.3 metres from finished floor level. The building would be located towards the eastern boundary of the site and would be clad White Aluminium and Grey cladding, alongside a smooth black brick for the walls. Windows and doors would be powder coated Grey. It is also proposed that 80kWp solar panels would be sited on the roof, while air source heat pumps and air condition units would provide heating and cooling.
7. The scheme includes on-site parking spaces to be utilised in connection with the retail unit. This equates to 121no. of spaces located to the west of the site, main the vehicular access to the site would be provided mid-way on the southern boundary of the site onto Mill Road. A secondary access providing access to a service yard would be provided adjacent to the western site boundary. A new pedestrian access is proposed from the eastern site boundary linking into the existing footpath network adjacent to the A690.
8. In terms of floorspace, the development would result in a gross floorspace of 2137m² with a new tradable floor area of approximately 1356m². The applicant has stated that the development would employ approximately 20 full-time and 20 part-time members of staff.
9. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as it constitutes a retail development with a floor space of more than 1000m².

PLANNING HISTORY

10. There is no relevant planning history to the site.

PLANNING POLICY

National Policy

11. A revised National Planning Policy Framework (NPPF) was published in December 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the

role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

12. *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.
13. *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.
14. *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.
15. *NPPF Part 7 - Ensuring the vitality of town centres*. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. 2
16. *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.
17. *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.
18. *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.
19. *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.

20. *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.
21. *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:

22. 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, biodiversity net gain, climate change, design process and tools; determining a planning application; effective use of land; environmental impact assessment; flood risk and coastal change; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; town centres and retail; travel plans, transport assessments and statements; noise; planning obligations; use of planning conditions.

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

Local Plan Policy:

The County Durham Plan (CDP)

23. *Policy 2 (Employment Land)* Supports business, general industrial and storage and distribution development within specified employment allocations and also protects other existing employment sites from being changed to non-employment uses, unless appropriate marketing has been undertaken or that the use would not compromise the main employment use and would comply with retail Policy 9 where main town centre uses are being proposed. Where a non-employment development is proposed on the protected employment sites, any existing jobs on site must be relocated.

24. *Policy 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
25. *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.
26. *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.
27. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.

Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

All major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).

28. *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.
29. *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.

30. *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.
31. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
32. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
33. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
34. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
35. *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.

36. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.
37. The Council's Parking and Accessibility Supplementary Planning Document (SPD) 2023 provides guidance on parking and access for new development.

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

Neighbourhood Plan:

38. There are no neighbourhood plans which apply to this application site.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

39. *Highways Authority* – Advise that subject to conditions, obligations and the applicant entering into a Section 278 agreement, that the scheme would be acceptable in regard to highway safety, including in terms of traffic generated and the impact on the wider network and in relation to the access and parking provision. The conditions and obligations shall include the access, car parking and cycle parking being laid out prior to the first use of the building as well as a Grampian condition to secure a 2-metre pedestrian island on the A690 to aid pedestrian movements from the development.
40. *Lead Local Flood Authority* – Offer no objections advising that the Flood Risk and Drainage Impact Assessment alongside the hydraulic calculations are acceptable subject to the surface water connection into the highways drain.

Non-Statutory Responses:

41. *Spatial Policy* – Advise on the relevant planning policies to assess the proposal. The site is located at Langley Moor and Littleburn Industrial Estate and is protected for B1, B2 and B8 Uses under Policy 2 of the CDP. The site is located outside of the defined Langley Moor Local centre and therefore, Policy 9 of the CDP is applicable as it relates to retail hierarchy and town centre development.
42. *Ecology* – Advise that the development would result in a net loss in biodiversity of - 0.31 units. To mitigate this, in this instance a commuted sum of £3500 is acceptable to provide for one biodiversity unit. The habitat type, extent and condition of on-site habitat creation detailed in the DEFRA Metric and

supporting BNG Report should be appropriately conditioned alongside the submission of a Landscape Ecological Management Plan (LEMP) prior to commencement.

43. *Environmental Health Nuisance* – Advise that using planning conditions, the development would not lead to an adverse impact. Planning conditions should be imposed to include the compliance with the noise impact assessment; no deliveries or servicing to be undertaken during the operational phase of the development between 23:00 to 06:00 on any day; details of any external lighting; construction hours and a construction management plan to include a dust action plan.
44. *Environmental Health Land Contamination* – Advise that a Phase 1 and 2 Assessment have been submitted which identify the need for further site investigations prior to remedial works including gas monitoring and a ground gas risk assessment. Therefore, a planning condition is required to secure the submission of an additional Phase 2 to 4 assessment.
45. *Air Quality* – No objection subject to planning conditions relating to the submission of a construction management plan to include a dust action plan and submission of traffic management plan.
46. *Landscape* – Advise that the proposed plant species and numbers for the landscaping scheme are appropriate. Advise that consideration should be made to the planting of trees along the frontage of the development along Mill Road to help soften the appearance of the building and parking area.

External Consultees

47. *Northumbrian Water Ltd* – No response received.
48. *Police Architectural Liaison Officer* – No response received.

Public Responses:

49. The application has been advertised by way of a site notice, press notice and individual notification letters.
50. In response, a total of 14 public comments have been received, comprised of 4 letters of objection, 6 letters of support and 4 letters of representation from members of the public, local businesses and retail providers.
51. The concerns raised relate primarily to three key topics; highway safety and the principle of the development and ecology:

Highway Safety

- Highway safety regarding the potential for increased traffic at the Mill Road/A690 junction. Traffic lights or a mini roundabout should be installed to assist in traffic calming and pedestrian crossing.
- Increased traffic and use of the back lane (High Street South) as a car park to negate traffic issues.

- Errors in the Transport Assessment as Section 3.8.8 is factually incorrect as the A167/A690 junction is subject to 40mph speed limit, not a 30mph limit. Section 3.4 relates to traffic base flows and assume this refers to the stores anticipated peak times and is not representation of the actual highway peak.
- Questions in regard to the location of the pedestrian crossing.

Principle of the Development and Retail Considerations

- Question the need for an additional supermarket given that there is a Lidl and Tesco in Langley Moor.
- Inappropriate classification of the application site as being 'edge-of-centre' has resulted in the sequential assessment being incorrectly undertaken. Therefore, the sequential assessment is fundamentally flawed and not sound.
- The distance of the proposed store from southern edge boundary of the Langley Moor Local Centre is at least 350 metres away when measured from the store entrance, not 250 metres away.
- The applicant has failed to consider all potential sequentially preferable sites by failing to review sites in or on the edge of all defined retail centres within the defined catchment area. There is no review of sites for Ushaw Moor Local Centre and Bearpark Local Centre. This approach is reflected under Planning Case Law 'Aldergate Properties Ltd vs Mansfield District Council (June 2016).
- The linked shopping trips lost from the existing in-centre Tesco and Lidl would be more than that created by the development proposed.
- Significant deficiencies undermining the effectiveness of the submitted retail assessment due to the small proportions of the overall survey population forming the household survey results.
- A revised retail impact assessment is required as Latest GlobalData information on Aldi's trading sales densities show a significant increase in convenience good sales, by at least 20% of that currently stated within the submitted assessment and this will have resultant changes on the trading performance of existing stores, will increase the turnover of the proposed store and will increase overall impact of the proposal over the assessment period.
- The previous Committee Report provides no trade diversion and resultant impact figures for Committee Members and this is unacceptable as it does not give Members the opportunity to make a judgment on the scale of diversion proposed.
- Incorrect consideration of trade diversion patterns has been undertaken.
- No assessment of comparison goods impact has been provided.
- Issues around the reliability of the data and sample size from the household survey.

Ecology

- Substantial ecological harm arising from the loss of biodiversity which would conflict with CDP Policy 41.
- No consideration of mandatory biodiversity net gain in the assessment of the application.

52. The letters of representation and support commented the following:

- The proposal will be good for the area and the community.
- Job creation in the community to boost the local economy.
- Ideal for those who do not drive and can use public transport to access the supermarket.
- To shop locally would be a benefit to the community rather than travelling to an alternative supermarket or location.
- Rejuvenation of a disused site which is an eye sore at the entrance to the industrial estate.

53. Councillor Elmer (Brandon Electoral Division) – Advises there is widespread support for the application in the Brandon division but there are highway safety concerns regarding the need for junction improvements at Mill Road/A690 junction. The junction is already overloaded with queuing traffic past the proposed entrance to Aldi during peak hours and measures to improve the capacity of this junction need to be put in place.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>

Applicant's Statement

54. The application seeks full planning permission for the development of a Class E discount foodstore of 2,137 sq.m (gross)/1,356 sq.m (sales) on land to the north of Mill Road, Langley Moor. The proposals are located on a long-term vacant, former factory site, and will therefore make a significant contribution to urban regeneration in addition to the many wider economic, retail and employment benefits that will be realised.

55. Aldi have long sought to identify a site within the local area, to help improve consumer choice and better meet the needs of residents who currently travel to parts of Durham, Crook or Spennymoor to visit an Aldi foodstore. This has been borne out by the strong level of support received from residents during our public consultation exercise that we held before we submitted the application. Over 90% of the 229 respondents to this process indicated their support for the proposal, with a number specifically noting the need for improved shopping choices, new investment and jobs in the local area.

56. To support the planning application, a Planning and Retail Statement was prepared to address national and local planning policy relevant to the proposals. In terms of the site's employment land designation, this included extensive marketing evidence, from a local commercial agent, covering a period of over 4 years. This identified a range of reasons as to why the existing premises was unattractive to the market and unfortunately, unlettable given its general age and condition. The agents concluded that *"Having explored all the options to achieve both a sale or letting of the site and considered the property market in general, it is clear that the long-term future of this site does not lie with industrial activity."* We are therefore pleased to have been able to satisfy this element of planning policy.

57. In addition, a retail impact assessment was included as part of the application, with this informed by a household shopping survey to understand current patterns. The overall conclusions from this were that:
- In retail terms, the site is out of centre. However it is close to and accessible from Langley Moor local Centre and therefore would help support linked trips with the wider shops and services present.
 - Only 45% of consumer convenience expenditure is currently retained within the area with approximately £82m leaking to other destinations, such as Aldi's stores in Crook, Spennymoor and Durham;
 - Based on the findings of the household shopping survey, both Tesco and Lidl stores in Langley Moor are identified to be overtrading by approximately £20m in total indicating a need for more choice within the area;
 - The proposals would only have a modest level of impact/diversion on the centre given this current performance and because of the recapture of lost leakage to Aldi stores elsewhere;
 - No sequentially preferable sites were identified within or on the edge of any identified centre within the proposed store catchment; and
 - As a result, both the sequential and retail impacts tests have been fully satisfied.
58. The proposals will also deliver a range of important wider benefits to the area including a new pedestrian crossing over the A690 (as agreed with the Council's transport officers), improved path linkages to enable linked trips with Langley Moor centre, in addition to the provision of new jobs and an investment of £6m in the area. A discount foodstore of the scale proposed would typically employ the equivalent of up to 40 full time members of staff, who are typically recruited from the local area. Additional jobs in the supply chain would also be created, alongside roles during construction ensuring a significant range of economic benefits would be delivered by the scheme.
59. Finally, Aldi stores boast strong environmental credentials both within their store design and in operation. This includes ensuring that the building will be BREEAM 'very good' in accordance with policy, the installation of EV bays within the car park and cycle parking, and the placement of solar panels on the roof, amongst others.
60. The proposed development therefore brings social, economic, regeneration and environmental benefits, falling within the definition of sustainable development, ensuring it will deliver clear public benefits to the locality.

PLANNING CONSIDERATION AND ASSESSMENT

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 the development, locational sustainability,

scale/design/landscaping, highway safety, residential amenity, ecology, flooding/drainage, ground conditions and the building/fabric sustainability.

Principle of Development

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. The County Durham Plan (CDP) constitutes 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 11c of the NPPF requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
64. Accordingly, the proposal will need to be assessed against the most up to date development plan for the area, the County Durham Plan and the National Planning Policy Framework as well as relevant SPDs and guidance.

Employment Site Policy

65. The application site is located within the Langley Moor and Littleburn Industrial Estate which is allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) under CDP Policy 2. For completeness, as the site is protected employment land under Policy 2 of the County Durham Plan, an assessment against Policy 6 (Development on Unallocated Sites) is not required.
66. Since the EIP of the County Durham Plan and shortly before the Inspector's Report was issued, changes to the use class order under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were proposed which have now taken effect. From 1st September 2020, whilst B2 and B8 Uses remain unchanged, B1 now falls under Class E Use. Whilst Policy 2 refers to B1 Uses being acceptable on this site, the broad range of uses under the new Class E use class may not be acceptable on the site. The intention is that it would be acceptable for light industrial, office and research and development use which formed the former B1 Use Class.
67. The proposed use of the site as a food retail unit falls within the Class E Use class. CDP Policy 2 identifies where the development of non-employment uses on allocated and protected employment sites will not be acceptable unless:
 - a) *There is documented evidence of unsuccessful active marketing for employment use with at least one recognised commercial agent at local market levels, over a continuous period of at least 12 months for a change of use of a property, 2 years for the redevelopment of a protected site and development of an allocated site below 10ha and 5 years for the*

*development of a plot of land on an allocated site of greater than 10ha;
or*

- b) The proposed use would not compromise the main use of the site for B class uses and would comply with Policy 9 (Retail Hierarchy and Town Centre Development) where main town centre uses are proposed.*

The Policy goes on to state that any new development for non-employment uses on employment allocations or existing protected employment sites must comply with the other relevant policies in the Plan and any existing jobs located on the site must be relocated.

68. In relation to criterion (a), as this proposal seeks the re-development of the site it needs to be advertised with at least one recognised commercial agent at local market levels over a continuous period of at least two years.
69. To evidence this, Appendix 9 of the 'Planning and Retail Statement' dated October 2023 provides a letter from a Director at 'Frew Pain and Partners Ltd' who are Commercial Agents and Property Consultants located in the North East. This satisfies the need for the site to be advertised with at least one recognised commercial agent at local level as outlined under CDP Policy 2 (a).
70. In terms of the marketing, the submitted information outlines that the site has been actively advertised since March 2019. Its advertising has included both freehold and leasehold options; the subdivision of the building; the design and build opportunities of the site as well as a rental basis. The marketing involved an in-house PDF marketing brochure being designed and circulated to interested parties; various marketing boards on the site which have been displayed to the front of the building along Mill Road; marketing of the site at other Durham based industrial estates; mailing in various forms including in free business magazine (Jungle Drums); full details being displayed on the website and discussions with Business Durham. A review of Frew Pain and Partners Ltd website and the PDF Marketing brochure of the site, confirms the statements made in relation to the marketing undertaken.
71. The submitted information includes a range of enquiries which have been received on the site throughout the marketing period, this includes 14 enquiries by different businesses. However, none of these businesses progressed their interest to the occupation of the site and the evidence outlines several market factors which has impacted the interest in the site which include:
- General age and internal layout of the building which restricts its functionality for other businesses.
 - Restrictive operational eaves height of the building as its construction is a dated lattice roof design which inhibits the central apex void to use racking and the installation of craneage for other businesses.
 - Quality of the floor and loading capacity due to the age of the building which would require extensive work to improve its load bearing capacity.
 - Poor circulation in yard for access vehicles.
 - Close proximity to residential housing where some potential occupiers have been concerned about hours of trading and manufacturing processes which may impact residents.
 - Overprovision of office accommodation which is circa 24% of the overall gross area which is higher than most traditional businesses require.

- Limited yard size compared to the size of the building.
- High cost of refurbishing the building to bring it up to current standards and regulations.
- Security.

72. It is considered the submitted information satisfies the policy requirement that the site has been actively marketed for a continuous period of over two years by at least one recognised commercial agent at local market levels which has resulted in unsuccessful marketing for the site for its current employment use. The re-development of the site for a use outside of B1, B2 and B8 would be acceptable under CDP Policy 2 (a) in these circumstances.

Retail Policy

The Sequential Test

73. In considering the location of the site in terms of retail policy, the NPPF defines an edge-of-centre location for retail purposes as *'a location that is well connected to, and up to 300 metres from, the primary shopping area.'* In looking at the local centre of Langley Moor, there is no primary shopping area in this centre and therefore, the site needs to be considered as an out-of-centre location. The NPPF defines out-of-centre as: *'A location which is not in or on the edge of centre but not necessarily outside the urban area.'* Therefore, the site is an out-of-centre location as acknowledged in the applicant's supporting information.
74. As the site is located in an out-of-centre location, due consideration must be given to the relevant parts of the NPPF, PPG and CDP Policy 9 (Retail Hierarchy and Town Centre Development) in relation to the development's impacts on existing retail centres.
75. As required by Paragraph 90 of the NPPF (Ensuring the Vitality of Town Centres), CDP Policy 9 sets out a retail hierarchy. In the context of the proposal, the site is located outside an identified centre, however a number of centres are located within or very close to the proposed primary store catchment including Durham City Sub Regional Centre, and the Local Centres of Bearpark, Brandon, Langley Moor and Ushaw Moor. As such, these centres shall be assessed as part of the planning application. Policy 9 of the CDP seeks to protect and enhance these retail centres and supports new town centre development across all of the County's centres that will improve choice and bring about regeneration and environmental improvements.
76. The proposed use of the site is Class E which falls within the definition of 'Main Town Centre uses' under Annex 2: Glossary of the NPPF. CDP Policy 9 requires proposals for town centre uses not within a defined centre to provide a sequential assessment. Therefore, the main issue relates to satisfying the sequential test in terms of the town centre first approach and assessing the impacts on existing centres (where applicable).
77. Paragraph 91 of the NPPF which states: *'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres and then in edge of centre*

locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

78. Paragraph 92 of the NPPF which states: *'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'*
79. The Planning Policy Guidance (PPG) relating to 'Planning for town centre vitality and viability' provides guidance on how the sequential test should be used in decision making (Paragraph 011 Reference ID: 2b-011-20190722). This states that it is for the applicant to demonstrate compliance with the sequential test. The application of the test will need to be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites will need to be discussed between the developer and local planning authority at the earliest opportunity.
80. The PPG further provides a checklist, as below, that sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:
- *'With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.'*
 - *'Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.'*
 - *'If there are no suitable sequentially preferable locations, the sequential test is passed.'*
81. The PPG continues that in line with Paragraph 96 of the NPPF (updated to Paragraph 91 December 2023) to state: *'only if suitable sites in town centre or edge of centre locations are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account.'*
82. The application has been accompanied by a Sequential Assessment (SA) which sets out the characteristics for the search criteria which include:
- A Gross External Area of 2,173sq.m to allow for a net sales area of 1,356 sq. m of which 1,085 sq. m comprises convenience sales.
 - Customer car parking of at least 105 spaces.
 - A minimum site area of 0.8 hectares (2 acres).

83. It continues to outline the fundamental requirements of a modern Aldi Store which include:
- Retail Sales Area: a circa 1,300 sqm floor area is required to provide approximately 2000 core product lines and the dimensions of the store are determined by the need to ensure adequate product display space. A rectangular shaped area for retail sales is required to specifically enable efficient transfer of products.
 - Storage and ancillary non-retail floorspace: the foodstore must be capable of being serviced by a HGV delivery vehicle and the site layout must enable the delivery vehicle to enter and leave in forward gear and for the vehicle to dock correctly.
 - Customer car parking.
84. Accordingly, it is necessary to define an area of search for sequentially preferable sites based on specific trading characteristics of a retail development of this size.
85. In identifying the primary catchment area, PPG explains that the '*application of the [sequential] test will need to be proportionate and appropriate for the given proposal*' (Paragraph 011 Reference ID: 2b-011-20190722). This reflects the approach for defining a catchment for the retail use based upon the area from which the majority of its trade will be drawn (i.e., its sphere of influence based on size, offer, etc.) and existing surrounding competition which might equally influence future patterns of trade. The Sequential Assessment identifies that its catchment area would be a 7-minute drive-time to/from the store. It also identifies that the retailer's website identifies that a new discount food store requires a catchment population of some 15,000 people. Based on up-to-date population data, the assessment identifies that within a 7-minute drive-time catchment area from the application site, there is circa 26,500 people. Therefore, the primary catchment area for the application is a 7-minute drive-time from the application site which is an appropriate catchment area for the development based on the submitted evidence.
86. Within a 7-minute drive-time of the application site, there are a number of designated local centres which include: Langley Moor (immediate north), Brandon (to the southwest), Bearpark (to the northwest) and Ushaw Moor (to the northwest). Durham Sub Regional Centre (city centre) lies immediately out with the catchment area to the north. Whilst Durham City centre is outside the identified catchment area, it has been included in the sequential test. The assessment considers whether there are any sequentially preferable alternative sites within or on the edge of the centres identified above, taking into account Paragraph 92 of the NPPF which requires preference to be given to accessible sites which are well connected to the town centre. It identified twelve other sites, based on the search criteria, for the development. Each shall be taken in turn below.
87. Site 1 relates to 'open space at Brandon' which is circa 2.9 hectares in size and occupies a parcel of open space which is identified within the County Durham Plan as 'Amenity Open Space' as well as a section of the site being identified for 'Playing Pitches' under Policy 26 and the Council's Open Space Needs Assessment. The southern section of the site is partly located in the Brandon

Local Centre. As part of the site is within the Brandon Local Centre, it would be a sequentially preferable location to the proposed site. However, by virtue of developing this site, there would be a loss in open space provision of which CDP Policy 26 states: *'Development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. Where valued open spaces or assets are affected, proposals must incorporate suitable mitigation and make appropriate provision of equivalent or greater value in a suitable location. Where appropriate there will be engagement with the local community.'* The loss of the open space would likely fail to comply with CDP Policy 26 which would be a key challenge for the development of this site. In looking at its suitability, alongside the issues regarding open space, the site is located primarily in a residential area with little passing traffic and does not have the necessary prominence to be a successful/viable site for retail operation. The site is not considered to be suitable. It is also not clear if the site is 'available' as it is not currently being advertised for disposal. Therefore, Site 1 is discounted.

88. Site 2 relates to 'North Littleburn Road' which is approximately 0.73 hectares in size and is partly located within the Langley Moor Local Centre to the immediate west. As part of the site is within Langley Moor Centre, it could be considered as a sequentially preferable site compared to the proposed. However, to the east of the site is the railway line with agricultural land beyond, to the immediate south are residential properties with a mix of residential and commercial premises to the west and south. In looking at the suitability of the site, whilst the site is large enough to accommodate the development, this would be at the maximum extent of the flexibility that can be utilised to deliver such a scheme. The site has an irregular shape which would not suit the development given the requirements of a standard form and regular shape of the store. Also, the site is accessed via narrow access road which in its current form would not accommodate the proposed level of traffic which would be generated. The site also does not provide sufficient prominence to a main road to meet the needs of the applicant. Therefore, Site 2 is not suitable for the development. Turning to availability, the site is not being advertised for disposal which could be due to the recent planning approval (DM/19/03541/FPA) for residential development. Based on this, it is considered that site 2 can be discounted.
89. Site 3 'Open Space at Front Street, Langley Moor' is identified in the County Durham Plan's Open Space Needs Assessment as amenity open space and an outdoor sport pitch. The loss of the open space would likely fail to comply CDP Policy 26 which would be a key challenge for the development of this site. In terms of the availability of the site, the land is within Council ownership and is not available for disposal. Therefore, Site 3 can be discounted.
90. Site 4 'Land at Cockhouse Lane, Ushaw Moor' is located west of the defined local centre at Ushaw Moor and is currently used for agriculture. Concerns have been raised of the potential landscape and highways impacts in developing the site especially as a previous outline planning application (DM/18/02982/OUT) for up to 210 dwellings which was refused on these grounds. In addition, it is not clear if the site is 'available' as it is not currently being advertised for disposal. Accordingly, Site 4 can be discounted.

91. Site 5 'Land at Station Road, Ushaw Moor' is approximately 0.12 hectares in size. This site would be too small to develop the proposed retail store and it is not clear if the site is available as it is not currently being advertised for disposal. Site 5 can be discounted.
92. Site 6 'Open Space at Silver Tree Primary School, Ushaw Moor' is located to the north east of the defined local centre and is identified as being playing fields associated with Silver Tree Primary School as identified in the CDP Open Space Needs Assessment. The loss of open space would likely fail to comply with CDP Policy 26 which would be a key challenge for the development of the site. In addition, the site does not have an active frontage or street prominence which reduces the likelihood of passing traffic. The site is owned by the Council; however, it is not available for disposal. Therefore, the site can be discounted.
93. Site 7 'Land at Colliery Road, Bearpark' is approximately 6.4 hectares in size and located to the north east of the defined centre. It has been identified that the site is allocated for housing within the County Durham Plan with planning permission being granted in 2022 (DM/21/01520/FPA) for the erection of 148 dwellings across the site with it currently being under construction. Given this, it is agreed that the site can be discounted as it is not available for the development.
94. Site 8 'Water Works site at Bearpark'; Site 9 'Land to South of Bearpark'; Site 10 'Land to the north of Front Street, Langley Moor'; Site 11 'Land adjacent to railway line, Durham' and Site 12 'The Sands, Durham' have all been assessed in the sequential assessment. Each of these sites are within the Green Belt as designated within the County Durham Plan and are either utilised as open space or for agricultural uses with the exception of Site 8 which is partly brownfield and partly water services. CDP Policy 20 relates to the Green Belt and states: '*Development proposals within the Green Belt will be determined in accordance with national planning policy.*' Paragraphs 152 to 156 of the National Planning Policy Framework set out that development should not be approved in the Green Belt except in very special circumstances with Paragraph 154 stating the exceptions. The construction of a retail store is not one of the exceptions to development in the Green Belt under Paragraph 154. Therefore, each of these sites can be discounted as they would fail CDP Policy 20 and Paragraph 152-156 of the National Planning Policy Framework.
95. Furthermore, Paragraph 92 of the NPPF states: '*When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.*' Therefore, the accessibility and connectivity of the site to the local centre needs to be considered.
96. The nearest defined centre is Langley Moor which is approximately 350 metres from the proposed store entrance. To consider public transport, the Chartered Institute of Highways and Transportation 'Proving for Journeys on Foot' document contains suggested acceptable walking distances for pedestrians to access facilities and services. In terms of access to bus routes, a walk of 400 metres falls within the 'desirable' range. In this respect, the site is within the 400-metre walking distance of approximately seven bus stops in the immediate

area. This allows for users of the development to make use of public transport with options available in the vicinity of the site.

97. Also, pedestrian access to the site is already present with footways along Mill Road with access to areas of housing to the west and south/west as well as the surrounding industrial estate. In addition to the existing infrastructure, the development includes a pedestrian footway across the open land from the A690 and a new pedestrian crossing to allow for pedestrians to access the site in a safe and suitable manner. These additional links will enhance the accessibility of the site to the wider Langley Moor Local Centre which is approximately 350 metres from the proposed store entrance which is considered to be a reasonable distance to access it. Therefore, consideration of Paragraph 92 of the NPPF in terms of the accessibility of the site has been made and the site has been assessed as being within an accessible location.
98. In looking at the sequential assessment, it has identified 12 other sites which have all been considered against the characteristics and requirements of the application. In reviewing this, it is acknowledged that there are no opportunities for the proposed development in other sequentially preferable locations in the primary catchment area that has been identified.
99. The Council's Planning Policy Team have reviewed the submitted sequential assessment and advise that the methodologies and conclusions of the report are sound. On this basis, in exercising a planning judgement, it is considered that the application has fulfilled the requirements of the Sequential Test as set out under CDP Policy 9, Paragraph's 91 and 92 of the National Planning Policy and Planning Practice Guidance and is considered to be acceptable in this regard.

The Impact Test/Assessment

100. CDP Policy 9 states: *'Proposals for retail, in excess of 1,500 sqm (gross) convenience floor space or 1,000 sqm (gross) comparison floorspace, proposed outside of a defined centre, and that could impact on a Sub Regional, Large Town or District Centre, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG.'* It continues to state: *'Proposals for retail, as defined by NPPF, in excess of 400 sqm (gross) convenience or comparison floorspace, proposed outside of a defined centre, and that could impact on Small Town or Local Centres, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG.'*
101. This is reflected in Paragraph 94 of the NPPF which outlines: *'When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:*
 - a) *The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

b) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).'

102. PPG sets out that the '*purpose of the test is to consider the impact over time of certain out of centre and edge of centre proposals on town centre vitality/viability and investment.*' (Paragraph 014. Reference ID: 2b-014-20190722.
103. In terms of floorspace, the development would result in a gross floorspace of 2137m² with a new tradable floor area of approximately 1356m². Therefore, a Retail Impact Assessment is required to support the application which has been submitted under Part 7 and Appendices 6, 7 and 8 of the 'Planning and Retail Assessment' which has been fully assessed by the Planning Policy Team. Given the nature of the proposals, the Retail Impact Assessment (RIA) needs to consider the convenience impacts of the development.
104. As part of the RIA, a household survey has been undertaken focusing upon Zone 8b 'Outer Durham' and adjacent zones '8a, 5 and 9' defined within the Council's Retail and Town Centre Study dated 2018 which provides the Council's evidence base for CDP Policy 9.
105. Before looking at the RIA in detail, concerns have been raised in relation to deficiencies in the RIA and its data, especially in relation to the household survey results and sample size. In response to this, additional information on this has been submitted which shows that the RIA was carried out following a standard methodology with the assessment being informed by a representative town centre survey carried out by NEMS Market Research. It is considered that the methodology applied in the assessment mirrors that within the Council's own Retail Study which was also carried out by NEMS and was subject to examination through the adoption of the County Durham Plan. In regard to the sample size, NEMS advise that Zone 8a, 8b, and 9 each had 125 interviews which is above the recommended 100 interviews per zone. Therefore, it is considered that the evidence of the household survey, on balance, is robust to assess the impact of the development on the defined centres.
106. The defined catchment area, as outlined above, is within a 7-minute drive of the application site. The Retail Impact Assessment considers the impact of the proposal upon the following:
 - Durham Sub-Regional Centre;
 - Langley Moor Local Centre;
 - Brandon Local Centre;
 - Bearpark Local Centre;
 - Ushaw Moor Local Centre.
107. Regarding the impacts of the development upon existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal, based on a review of the County Durham Plan and planning applications, there are no specific public or private investments in any of the centres in the catchment area. Therefore, the development will not have an impact upon existing, committed or planned public and private investment in the centres of the defined catchment area.

108. In considering the impacts, trade diversions and resultant impact figures have been supplied as part of the RIA. Also, in response to the concerns raised through the consultation, an additional sensitivity analysis of the findings has been provided which considers the effects on trade impact on all local centres if the original findings were all reduced by 15%. The results are summarised below.

Convenience Good Cumulative Trading Impact 2026 Summary				
Destination	Household Survey Based Turnover (£m)	Trading Impact (%)	SENS 1 (-15% Turnover)(£m)	Trading Impact – SENS 1(%)
Langley Moor Local Centre	£38.13m	8.21%	£32.42	9.66%
Lidl, High Street South	£21.42m	9.5%	£18.2m	11.18%
Tesco, High Street North	£16.71m	6.56%	£14.21m	7.72%
Ushaw Moor Local Centre				
Coop, Broom Lane	£2.83m	5.82%	£2.4m	6.85%
Brandon Local Centre				
Coop, Lowland Road	£4.99m	6.59%	£4.24m	7.75%
Esh Winning Local Centre				
Coop, Newhouse Road	£3.61m	1.52%	£3.07m	1.79%
Out of Centre				
Other Shops	£2.5m	4.38%	£2.13m	5.15%

Figure 1

109. In taking each centre in turn, first the impact upon Durham 'Sub-Regional Centre' has been considered. It recognises that Durham City has significant levels of floorspace and its influence extends over a wide area within the County where the city has experience recent and continued investment. The assessment outlines that Durham City's convenience retailing sector accounts for 4.2% of all retail units located in the city centre with its comparison goods equating to 21% of all shop units within the centre. It identified there is a vacancy rate of 12.4% in Durham City with the vacant units being spread across the centre. However, in some cases, more than one vacant unit was recorded within a close area which does have an impact upon the aesthetics and health of the centre. In terms of accessibility, Durham City is regarded to be highly accessible with a range of public transport including a railway station and bus services with pedestrian activity found to be very high within the city centre with a focus around Market Place and along the High Street. In assessing Durham City, the

Sub Regional Centre is regarded to be relatively healthy, despite having vacant units, which is largely due to high environmental quality through its historic qualities and pedestrian activity. In addition, Durham City Centre does not have an existing retail offer in terms of large floorplate food stores which would be in direct competition with the proposal in terms of floorspace, convenience and comparison goods. Therefore, the development at Langley Moor is not considered to have a significantly adverse impact on the vitality or viability of Durham City Centre.

110. In turning to the Langley Moor local centre, the Retail Impact Assessment highlights that the local centre is focused on the High Street (A690) north to south. The local centre includes a 'Lidl' and 'Tesco' food store with the proposed 'Aldi' lying approximately 250 metres to the south of the centre on Mill Road. Due to the location of Lidl and Tesco, the nature of their offer alongside the proximity of the development in relation to the local centre, the proposal is considered to have the greatest impact upon Langley Moor local centre. To explore this further, it contains a total of 48 shop units with the convenience retailing sector accounting for 6.3% of all retail units. The most prominent convenience stores within the local centre are Tesco (smaller format to that of a typical Tesco superstore) and Lidl (full-sized standard) food stores. In relation to comparison goods, 14.3% of all units were found to be selling comparison goods. Langley Moor was found to have a vacancy rate of 12.5% with none of the vacant units being of a scale which would facilitate the development of the proposal. The Retail Impact Assessment states that Langley Moor Local Centre is perceived to be healthy, largely due to their only being 6 vacant units with two convenience food stores and an offer of leisure services.
111. In considering the impacts upon Zone 8b, Lidl and Tesco are both within Langley Moor Local Centre, based on the advice of the Council's Planning Policy Team the conclusions of the RIA are that Lidl and Tesco are able to sustain the impacts of the development due to their strong trading performance in their stores as evidenced within the applicants RIA. Therefore, the proposal is not considered to have an impact on the vitality and viability of Langley Moor Local Centre.
112. The table (Figure 1) demonstrates the convenience good cumulative trading impact for each of the local centres. Langley Moor Local Centre would be the most impacted local centre from those assessed as shown by the figures. In the case of the Langley Moor local centre, if the turnover of stores within Zone 8b (which includes Tesco and Lidl) are all reduced by 15% due to the development, the impact on Langley Moor centre would increase from 8.21% to 9.66%. In considering this, this is not considered to lead to significant adverse impacts upon the vitality and viability of the Langley Moor Local Centre as the data shows that the local centre would still generate a successful turnover in their respective stores.
113. In relation to Brandon Local Centre, it is regarded as a very small local centre with a small number of shops and services. It has nine units with one of these being a convenience store (11.1% of all units) as 'The Co-operative Store' and one comparison good store (11.1% of all units). It had three vacant units and due to the scale of the units, even if combined, they would not facilitate an Aldi store. The assessment determined that the Brandon Local Centre was perceived to be below average in terms of retail health due to its vacancy rate

and low environmental quality despite being utilised by residents. As Brandon offers limited convenience retailing, it is considered that the Aldi proposal would not have a significant adverse impact on the vitality and viability of Brandon local centre.

114. Regarding Bearpark Local Centre, it contains a total of 12 units with the convenience stores accounting for 2 of this (16.7% of all units), no comparison good stores and no vacant units. The most prominent convenience store is a 'Morrisons Daily' and due to this, there is no direct competition within the local centre. Bearpark Local Centre is perceived to be moderately healthy with the absence of any vacant units having a positive impact. Based on this, it is considered that the development of an Aldi would not negatively impact on the vitality and viability of Bearpark.
115. Regarding Ushaw Moor Local Centre, it contains a total of 17 units with 3 convenience stores (including a Co-op and a Premier Store), no comparison good stores and two vacant stores. Given this, there is no direct competition within the local centre. Ushaw Moor is perceived to be healthy, due to the presence of only two vacant units in the centre with three small convenience stores with a range of leisure services. Although the local centre is easily accessible by means of public transport Ushaw Moor is less accessible by vehicle due to the lack of parking facilities. Given this, it is considered that the development would not have an adverse impact on the vitality and viability of the centre.
116. Considering the above, whilst it is recognised that the greatest impact would be upon Langley Moor Local Centre given the proximity of the development to the centre, alongside the location of both 'Tesco' and 'Lidl', based on the RIA, the development would not lead to a significant adverse impact upon Durham Sub Regional Centre, and the local centres of Langley Moor, Brandon, Bearpark, and Ushaw Moor in our planning judgement. The RIA is acceptable with regard being had to the vitality and viability upon the town or local centres identified as the evidence shows there would be no likely significant adverse impacts.
117. Concerns have also been raised in regard to their being no submission of a comparison goods impact assessment. It is recognised this assessment has not been undertaken and this is based upon the small quantum of comparison goods floorspace within a typical Aldi store. In considering this, there is no need to provide a comparison goods impact assessment.
118. The application, in exercising our planning judgement, has fulfilled the requirements of the RIA set out under CDP Policy 9, Paragraph 94 of the NPPF and Planning Practice Guidance to be acceptable in this regard.
119. PPG sets out that '*Where evidence shows that there would be no likely significant impact on a town centre from a edge of centre or out of centre proposal, the local planning authority must then consider all other material planning considerations in determining the application, as it would for any other development*' (Paragraph 018 Reference ID: 2b-018-20190722). Therefore, the other sections of this report will make this assessment.

Conclusion in relation to retail impacts

120. In conclusion and having regard to the Sequential and Retail Impact Assessments submitted, based on the advice of the Council's Planning Policy Team both the tests (sequential and impact assessment) have been appropriately undertaken in accordance with the NPPF, PPG and Policy 9 of the CDP requirements in our planning judgement. In undertaking the sequential assessment, a town or local centre approach has been applied to the scheme. However, the findings indicate there are no suitable and available sequentially preferable locations, and on this basis, the sequential test is considered acceptable. In addition, in our planning judgement, the proposals are not anticipated to have a significant adverse impact on the nearest retail centres as demonstrated by the Retail Impact Assessment. Overall, it is considered that the development would comply with CDP Policy 9, Paragraphs 91 and 92 of the National Planning Policy Framework and Planning Practice Guidance in this regard.

Locational Sustainability of the Site

121. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. CDP Policy 29 requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities, and emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
122. The NPPF sets out at Paragraph 114 that in assessing applications for development, appropriate opportunities to promote sustainable transport modes should be taken. Paragraph 116 continues this to state that applications for development should give priority first to pedestrian and cycle movements and so far as possible, facilitate access to high quality public transport with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.
123. In considering this the development against the above policy context, Langley Moor is identified as a 'Local Centre' within the County Durham Plan. Local centres are found within many villages across the county and support a number of local shops and services that meet local residents' daily shopping needs. The application site would be within the settlement of Langley Moor where there is a range of facilities accessible, albeit outside of the defined centre.
124. In relation to access to public transport, the Chartered Institute of Highways and Transportation 'Proving for Journeys on Foot' document contains suggested acceptable walking distances for pedestrians to access facilities and services. In terms of access to bus routes, a walk of 400 metres falls within the 'desirable' range.
125. In this respect, the site is within the 400-metre walking distance of approximately seven bus stops in the immediate area. This allows for users of the development to make use of public transport with options available in the vicinity of the site.

126. Also, the development includes a pedestrian footway across the open land from the A690 and a new pedestrian crossing to allow for pedestrians to access the site in a safe and suitable manner. This would allow for the site to be accessed safely by pedestrians which aids in the sustainability of the application site, being accessible by foot. The proposal would also include cycle storage on-site which would encourage and facilitate the use of cycles to access the site which is another sustainable form of transport.
127. Overall, the site has access to public transport and is within the settlement of Langley Moor. Therefore, the application site is within a sustainable location in accordance with Policies 21 and 29 of the County Durham Plan, and the National Planning Policy Framework. A condition will be imposed requiring the submission of a Travel Plan.

Scale/Design/Landscaping

128. CDP Policy 29 outlines that development proposals 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. In total, CDP Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
129. In addition, CDP Policy 29 sets out that major development proposals should create a well-defined, easily navigable and accessible network of streets and spaces which respond appropriately to local context.
130. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
131. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
132. Part 12 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
133. The site is within an area that has a mixed-use appearance which demarcates the character of the area as both industrial and within a residential setting. The existing building on the site is of an industrial appearance, commensurate with its use and is a prominent building along Mill Road and visible from the A690. It

is considered that the demolition and loss of the existing building, whilst it would change the appearance of the site, given the surrounding context, would not detract from the character and appearance of the area.

134. In relation to the new building and associated works, the building will be located within the most eastern area of the site in a similar position to the existing building. It would be of a design and style that would be commensurate with its proposed use as a retail unit/supermarket. It would be of a proportionate size and scale for the site, with the materials being acceptable. The surrounding area has a variety of sizes, scales, materials and designs of building and the new building will not cause any harm to the character of the surrounding area and would respond appropriately to the local context. Also, it is considered that the proposal would be an improvement to the area as the existing site appears as an unused and overgrown site which does not make a positive contribution to the character and appearance of the area. This development would re-use a site in a prominent location within the local area.
135. The Landscape Team have been consulted as part of the application and advise that the proposed plant species and numbers for the landscaping scheme are appropriate. They also advise that consideration should be made to the planting of trees along the frontage of the development to Mill Road to help soften the appearance of the building and parking area. This has been discussed with the applicants and they advise that tree planting in this location cannot be achieved due to underground services in this area. In considering this, whilst additional trees to the frontage with Mill Road would be welcomed, given that these cannot be delivered, based on the previously developed nature of the land within an industrial estate, the proposed landscaping is acceptable without additional planting to Mill Road.
136. The application has been accompanied by an Arboricultural Impact Assessment and Arboricultural Method Statement with accompanying plans. Trees 6-9 and Groups 3 and 6 directly conflict with the building and car park and will need to be removed to facilitate the development. Tree 5 will also be removed due to structural defects and a limited safe useful life expectancy. Trees 5, 6-9 and Groups 3 and 6 are identified in the assessment as unsuitable for retention 'U'. In considering that the assessment identifies these trees as 'U' and unsuitable for retention, they are not considered to be of high landscape, amenity or biodiversity value and their removal would be acceptable in accordance with Policy 40 of the CDP. The remaining trees will be retained on the site and tree protection measures will be installed to protect these trees which will be conditioned accordingly.
137. Overall, the design of the development is considered to respond positively to the local area and would comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. Whilst the proposal will result in the removal of trees, the landscaping plan will provide new planting to the previously developed land which will adequately compensate for the loss of the trees. This will comply with Policies 39 and 40 of the County Durham Plan.

Highway Safety/Access

138. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting

developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. CDP Policy 6 criterion (e) require development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.

139. The Council's recently adopted Parking and Accessibility SPD sets out parking standards for new developments but recognises that applicable standards may be reduced on a case-by-case basis, particularly where a development is in an accessible location.
140. The NPPF sets out at Paragraph 114 that safe and suitable access should be achieved for all users. In addition, Paragraph 115 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
141. The site is accessed via Mill Road which is accessed via the A690 to the east. Concerns have been raised by members of the public, alongside the local Councillor, in relation to highway safety and particularly in regard to the traffic and congestion between the Mill Road and A690 junction. The concerns raised request measures to improve this junction which include either traffic lights or a mini roundabout.
142. In terms of the highway improvements, the proposal would upgrade the existing access to the site from Mill Road and proposes to create a new footpath next to 110 High Street South, linking directly to the development from the A690 from the retail unit. The scheme includes the creation of a 2-metre pedestrian island on the A690 to aid non-motorised users to get across the A690 to and from the proposed store.
143. The Highways Authority have been consulted as part of the application. The application has been supported by a full Transport Assessment (TA). Under this, consideration has been made of the trips generated and the number of junctions on the local road network to include consideration of:
 - A690/Mill Road junction;
 - A690/East View;
 - A690/Station Road;
 - A690/Black Road/Littleburn;
 - A690/Nevilles Cross/B6302 Broom Lane;
 - A167/A690.
144. The TA summarised that the peak supermarket hours are Friday 3pm to 7pm and Saturday 9am to 1pm. Outside of these peak times, the number of trips generated by existing Aldi stores is between 30 and 50 vehicular trips on the local road network per hour. In the context of the A690 in this part of Langley Moor, which currently carries circa 1400 trips per hours, an increase of 30-50 trips would have a negligible impact on the local road network.
145. In the supermarket peaks, the proposed use is expected to generate around 340 vehicular trips in (170 arrivals and 170 departures). However, it should be noted that approximately 50% of these trips are pass-by trips, so already on the

network making a trip. The other 50% are new trips who were not previously on the local road network. Therefore, the additional impact of the new store is actually 170 trips in the peak hour (85 arrivals and 85 departures).

146. The Highways Authority has reviewed the submitted TA and advise that the scope of the assessment and its conclusions are sound. It is advised that the applicant has appropriately modelled all the junctions identified above in both a 2028 and 2028 + development traffic scenario for both the Friday PM peak, and the Saturday peak. The TA concludes that all junctions, with the exception of Neville's Cross, continue to work well within their design capacity in both the 2028, and the 2028 + development traffic scenario. Neville's Cross is a strategically important junction in Durham, and the existing issues of queue and delay are already known. While this development would add additional vehicles through this junction in the already over capacity peak periods, the additionality is so small as a result of this development that it would not meet the tests set out in NPPF Para 115 of having a severe cumulative impact. Therefore, the impact from this development on Neville Cross junction is minimal.
147. Access to the site from Mill Road would be via the existing vehicular access point and upgrading works to this access would be undertaken as part of the development. Suitable visibility from the junction of 2.4m x 43m would be achieved and therefore, on the Advice of the Highways Authority the access is considered to be a safe and suitable vehicular access to serve the site. Servicing would take place from a separate access further to the east, in the location of an existing access. The site would be served by 16.5m articulated lorries, auto tracking has been provided demonstrating that a vehicle of this size can enter the service area in a forward gear, manoeuvre safely and leave the site in a forward gear. The proposed servicing arrangements are therefore considered to be acceptable.
148. Regarding the concerns and suggestions raised by members of the public and local councillor in relation to highway safety, the suggestion for a change in the layout of the A690/Mill Road has been considered. However, regarding the installation of a dot mini roundabout, the junction does not meet this criterion. Dot mini roundabouts should only be used where the combined peak flows on all legs of the roundabout are less than 500 vehicles per hour. The peak flows at the A690/Mill Road junction are circa 1400 per hour and over 1000 outside the peak hours. The A690 is a main strategic route in Durham and has the dominant flows. Therefore, the opportunity for right turners to make the manoeuvre out of Mill Road even with an in-situ dot mini roundabout would be limited. In addition, localised widening would be required on the A690 to accommodate the deflection required to accommodate a dot mini roundabout. This widening could not be achieved due to the properties on the west side of the A690. It is also considered that most of the traffic associated with the proposed Aldi would be inter peak e.g. it would be visiting the store outside of the existing peak periods when traffic, and any queuing traffic on Mill Road, would be less than in peak periods.
149. While the Local Highway Authority advise that it has no concerns over the impact of vehicular movements associated with the proposed development, the A690 is a busy road in terms of vehicle flows carrying circa 15,000 vehicles per day, with 1400 in the peaks and between 1000 and 1200 vehicles per hour outside the peaks. These flows can make crossing the road difficult for

pedestrians. Discussions have taken place between the applicant and Highway Authority to address this concern. To mitigate this, a 2-metre pedestrian island with tactile paving on the A690 is proposed. The Highways Authority have reviewed this and consider this to be acceptable to allow non-motorised users to cross the A690 safely to access the store. They comment that as this is required to make the development acceptable in highway terms, it would need to be secured via a Grampian condition and be built and available for use prior to the first use of the building.

150. In relation to parking, the proposal will provide 121 parking spaces which includes 5% accessible bays, 5% active electric vehicle charging bays and 20% passive electric vehicle charging bays. This level of parking would be compliant with the Parking and Accessibility SPD 2023. A total of 16 cycle parking spaces would be provided which exceeds the requirement of 13 cycle parking spaces which is required for the development. Therefore, the parking and cycle storage complies with the Parking and Accessibility SPD to be acceptable in this regard.
151. Overall, whilst recognising that the development would add to trips onto the Nevilles Cross junction, which is already operating over capacity, on the advice of the Highways Authority the level of impact because of the development is considered to be minimal and would not meet the tests for refusal set out under Paragraph 115 of the NPPF. Other junctions around the site would continue to operate satisfactorily, while appropriate vehicular and access arrangements are considered to be provided. The proposals also comply with the Councils Parking and Accessibility SPD (2023). Overall, the development would maintain highway safety in accordance with Policy 21 of the County Durham Plan, and Part 9 of the National Planning Policy Framework in relation to highway safety and access.

Residential Amenity

152. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
153. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
154. The site is within the industrial estate but also in proximity to residential properties which is an established relationship between the uses in this area.
155. The building will be built approximately 40 metres from the closest boundary to the residential properties and their gardens to the west with the car parking in the intervening space between the residential gardens and the new building. This ensures there is an acceptable level of separation between the residential gardens and the building to ensure there is no harm to the existing residential properties regarding overlooking, an overbearing impact or overshadowing.

156. The application includes the retention of the existing palisade fence to the north and a new 2 metre weldmesh fence to a section of the northwest boundary next to the residential properties. The installation of a new fence along this boundary, given its height, will not cause harm to the residential amenity of surrounding properties. Notwithstanding this, a condition is recommended to be imposed requiring the exact details of all of the boundary treatments to be submitted.
157. The development proposes a new pedestrian crossing on the A690 which includes tactile paving to the existing public footpath and the creation of an island to allow pedestrians to cross the A690 safely. One of the public comments raised questions around the location of the pedestrian and what development this would include. In addressing this, as the works are only tactile paving to the existing footpath with an island in the public highway, these works are not considered to have an adverse impact upon residential amenity.
158. The Council's Nuisance Action Team have been consulted on the application and a noise impact assessment has been submitted. They advise that they have undertaken a technical review of the information submitted in relation with the relevant TANs (Technical Advice Notes) and advise that the development will not lead to an adverse impact upon residential amenity using planning conditions. The conditions should include compliance with the noise impact assessment; no deliveries or servicing to be undertaken during the operational phase of the development between 23:00 to 06:00 on any day; details of the external light; the submission of a construction management plan to include a dust action plan alongside construction hours.
159. A condition will be imposed to restrict the opening hours of the development to be 06:00 to 23:00 Monday to Saturday and Bank Holidays and 09:00 to 18:00 on Sundays. It is considered that as the site is a mixed-use area within an industrial setting with residential properties in the vicinity, that the restriction of the opening hours to these timeframes would be acceptable to secure the residential amenity.
160. In regard to air quality, the application site is located approximately 1275 metres (as the crow flies) from the boundary of the Durham City Air Quality Management Area (AQMA). Accordingly, an Air Quality Assessment has been submitted in support of the application, assessing the development impact in this regard. The Council's Air Quality Team have been consulted on the application and advise that following amendments and points of clarification that the submitted report adequately assesses the developments impact on air quality, specifically on the AQMA. It is advised that subject to conditions to control and mitigate potential construction related impacts development as it will not lead to an adverse impact in relation to air quality, including specifically on the AQMA.
161. Overall, subject to conditions, the proposals are considered to provide an acceptable standard of amenity for existing residents and would not have an adverse impact upon air quality in accordance with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

Ecology

162. Paragraph 180 d) of the NPPF advises that decisions should minimise impacts on and provide net gains for biodiversity. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
163. To acknowledge, on 12th February 2024, a mandatory 10% biodiversity net gain was introduced for developments of this scale under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). However, this application was validated before this date. On this PPG states: '*Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12th February 2024. Permissions granted for applications made before this date are not subject to biodiversity net gain*' (Paragraph: 003. Reference ID: 74-003-202040214). Therefore, the mandatory 10% net gain does not apply to this application and is not being sought.
164. The proposal has been accompanied by a Preliminary Ecological Assessment (PEA) alongside a Bat Survey Report and a Biodiversity Net Gain (BNG) DEFRA Metric and accompanying report. The Bat Survey report concludes that sections of the building are deemed to provide negligible bat roosting potential and the other sections were deemed to hold low bat roosting potential.
165. The PEA outlines mitigation measures including vegetation clearance to be undertaken outside the nesting bird season and working practices to follow during the construction of the development. This information has been reviewed by the Council's Ecology Team who advise that the methodology and conclusions of the submitted reports are sound and the mitigation measures are acceptable. Therefore, a condition should be imposed requiring the compliance with these measures.
166. Regarding BNG, the proposal would introduce wildflower planting around the site with 14 species of wildflower and grasses being planted. The Ecology Team advise that this would be acceptable and that the habitat type/extent and condition of on-site habitat creation should be conditioned. The Ecology Team also request the submission of a detailed landscape and ecological management plan (which is also considered to be a biodiversity management and monitoring plan) to show how the proposed habitats will be created and managed appropriately.
167. Despite on-site habitat creation, this would not result in a biodiversity net gain and the DEFRA Metric demonstrates that the site will result in a net loss of -0.31 Biodiversity Units overall. In this case, the loss in biodiversity is proposed to be mitigated by the payment of £3500 to the Council to deliver as mitigation to ensure that a net gain is delivered. This is proposed to be secured through a S106 legal agreement.
168. Concerns have been expressed in relation to the impact of the development upon biodiversity. The representation expresses that the site provides an overprovision of car parking spaces as required under the Council's Parking

and Accessibility SPD (providing 120 spaces where the requirement of the SPD would be 105 spaces) and that there should have been a reduction in the number of car parking spaces to facilitate on-site BNG as a financial contribution should be a last resort.

169. In considering this, the Parking and Accessibility SPD 2023 states: '*These guidelines for car parking are not a minimum or a maximum standard but rather recommendations that are intended to be applied equally across the County.*' Therefore, the SPD does not set a maximum nor a minimum standard for the parking levels. The applicant has proposed 120 parking spaces for the development which is above the requirement in the SPD, however this is not a minimum requirement and the applicant is an experienced retailer who will be aware of the parking provision required to support their retail offer on this.
170. In addition, as acknowledged under the 'Scale/Design/Landscaping' section of this report, discussions have taken place during the application on the provision of additional tree planting along the frontage of the development to Mill Road. This additional planting would help in achieving BNG on-site. However, this cannot be achieved due to the placement of underground services which would prevent additional planting in the area. Therefore, it is regarded that the applicant has explored maximising on-site opportunities for BNG, and in these circumstances of a previously developed site, the financial contribution, alongside on-site provision, to deliver BNG is the last resort to meet CDP Policy 41.
171. Subject to adherence to planning conditions and the entering of a legal agreement to secure a financial contribution of £3500 for BNG, the proposal would accord with Policies 41 and 43 of the County Durham Plan and Paragraph 180 of the National Planning Policy Framework in this respect.

Flooding/Drainage

172. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 173 of the NPPF advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 175 of the NPPF goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
173. CDP Policies 35 and 36 relate to flood water management and infrastructure. CDP Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. CDP Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
174. The application site is located within Flood Zone 1, however due to the size of the site the application has been accompanied by a Flood Risk Assessment and

Drainage Strategy. This sets out how the surface water would be managed on site in accordance with the drainage hierarchy. The reports set out that infiltration to the ground is not possible due to the site being underlain by natural superficial deposits comprising firm sandy to very sandy slightly gravelling clay. The nearest watercourse to the site is the Goats Beck located around 0.3km to the south and the route to this watercourse is via numerous elements of third-party land which is deemed to be unfeasible to discharge to. It is therefore proposed to connect the SUDS basin into a highway drain which will provide an indirect connection to the public sewer.

175. In assessing the proposed strategy, the Lead Local Flood Authority advise that the scheme is acceptable. Following a review of the relevant hydraulic calculations it is advised that the development would adequately manage and treat surface water on the site before being discharged.
176. Overall, the surface water and foul drainage for the site is considered acceptable and complies with Policies 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

Ground Conditions

177. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 189 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
178. The application site is outside of the Coalfield High Risk Area and accordingly, there is no need for a Coal Mining Risk Assessment and the Coal Authority have not been consulted on the proposal.
179. However, the application is located within the Coal Resource Area for mineral safeguarding. Policy 56 (Mineral Safeguarding Areas) seeks to prevent planning permission from being granted for non-mineral development that would lead to the sterilisation of mineral resources. It sets out where development may be applicable within these areas where criterion e refers to Appendix C of the CDP which sets out exemptions to this. Appendix C states '*All planning applications which occur within a Mineral Safeguarding Area as shown on the policies map should be accompanied by a mineral assessment except the following: Infilling in an otherwise built-up frontage within a settlement.*'
180. In this case, the application site is between a row of residential development to the west and existing industrial buildings to the east. Given this, it would meet the infill exemption of the policy with no realistic prospect of mineral extraction on the site. Therefore, no mineral assessment is required in accordance with Policy 56 of the County Durham Plan.
181. The Council's Contaminated Land Team have been consulted on the proposal and have advised that additional site investigations are required in addition to gas monitoring. They advise that a Phase 2 to Phase 4 land contamination should be secured via planning condition to safeguard the development from contaminated land.

182. Overall subject to relevant planning conditions, the proposal is considered to comply with Policies 32 and 56 of the County Durham Plan and Part 14 of the National Planning Policy Framework and is acceptable regarding ground conditions.

Building/ Fabric Sustainability

183. CDP Policy 29 criterion (c) requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.
184. CDP Policy 29 criterion (d) requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.
185. In addition, CDP Policy 29 states: '*All major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).*'
186. The Building Research Establishment Environmental Assessment Method (BREEAM) is the national standard for assessing the sustainability of new construction developments. The application is accompanied by a BREEAM pre-assessment report which sets out the development is targeted to achieve a BREEAM Rating of 'Very Good' with a targeted percentage of 60.32% which would exceed the 55% required percentage to achieve BREEAM Very Good. As BREEAM is a two-stage process, a condition will be imposed requiring the submission of the final BREEAM certificate prior to the first use of the building to certify the building has been constructed to a 'Very Good' BREEAM standard as required by Policy 29 of the CDP.
187. In addition, the scheme shall incorporate 80kWp solar photovoltaic array on the roof of the building alongside an air source heat pump being supplemented by a refrigeration heat recovery scheme to provide heat.
188. Therefore, the proposal would comply with Policy 29 of the County Durham Plan regarding sustainability principles.

Public Sector Equality Duty

189. 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.

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

CONCLUSION

191. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan which is the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision making, this means approving development proposals that accord with an up-to-date development plan without delay.
192. Regarding the principle of the development, the application site is located within the Langley Moor and Littleburn Industrial Estate which is allocated as employment land under CDP Policy 2. As the development is for a Class E use on employment land, the site has been actively marketed for a continuous period of over two years by at least one recognised commercial agent at local market levels which has resulted in unsuccessful marketing for the site for its current employment use. This satisfies CPD Policy 2 (a) and the re-development of the site for a non-employment use is considered acceptable.
193. To continue, having regard to the Sequential and Retail Impact Assessments submitted, it is concluded that both the tests have been undertaken in accordance with the NPPF, PPG and Policy 9 of the CDP requirements. The findings conclude there are no suitable and available sequentially preferable locations, and on this basis, the methodologies and conclusions of the sequential test are considered acceptable. In addition, the proposals are not considered to have a significant adverse impact on the nearest retail centres as demonstrated by the Retail Impact Assessment. The proposal therefore complies with CDP Policy 9, Paragraphs 91 and 92 of the National Planning Policy and Planning Practice Guidance to be acceptable in this regard.
194. Regarding the design of the development, it is concluded that it responds positively to the local area in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. Whilst the proposal will result in the removal of trees, the landscaping plan will provide new planting to the previously developed land which will adequately compensate for the loss of the trees, in accordance with Policies 39 and 40 of the County Durham Plan.
195. In terms of highway safety, whilst concerns have been expressed by local residents and Councillor, based on the advice of the Highways Authority the development would ensure that the surrounding highway network would continue to operate satisfactorily, recognising the existing impacts at the Nevilles Cross Junction. The inclusion of a pedestrian crossing on the A690 would allow safe crossing of pedestrians to access the site. Overall, it is concluded that the proposals would comply with the Councils Parking and Accessibility SPD (2023) in terms of parking provision, Policy 21 of the County Durham Plan, and Part 9 of the National Planning Policy Framework in relation to highway safety and access.

196. In terms of the residential amenity, subject to conditions, the proposals are considered to provide an acceptable standard of amenity for existing residents according with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.
197. In regard to the air quality, it is advised that subject to conditions to control and mitigate potential construction related impacts, the development as it will not lead to an adverse impact in relation to air quality, including specifically on the AQMA.
198. In relation to ecology, subject to adherence to planning conditions and the completion of a legal agreement to secure a financial contribution of £3500 for BNG, the proposal would be acceptable in accordance with Policies 41 and 43 of the County Durham Plan and Paragraph 180 of the National Planning Policy Framework.
199. Regarding surface water and foul drainage, the application has appropriately worked through the surface water hierarchy and would appropriately treat and attenuate before discharge. The development complies with Policies 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework in this respect.
200. Regarding ground conditions, subject to planning conditions, the proposal complies with Policy 32 and 56 of the County Durham Plan and Part 14 of the National Planning Policy Framework.
201. The building would be designed and constricted to 'Very Good' BREEAM standards, incorporating solar panels and an air source heat pump in accordance with Policy 29 of the County Durham Plan regarding sustainability principle.
202. The proposed development has generated some public interest, with letters of objection and support having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, environmental and economic benefits.
203. The development is considered to accord with the development plan as a whole and there are no material considerations which indicate otherwise. The application is therefore recommended for approval subject to the completion of a Section 106 Agreement to secure a financial contribution for BNG and conditions.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 Agreement to secure the following:

- A financial contribution of £3,500 to deliver biodiversity net gain.

And the following conditions:

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

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

2. The development hereby approved shall be carried out in accordance with the following plans and documents:

- Location Plan. Drawing Number: 0001 Rev P01 received by the Local Planning Authority on 8th November 2023
- Proposed Site Plan. Drawing Number: 0002 Rev P03 received by the Local Planning Authority on 26th January 2024
- Proposed Elevations. Drawing Number: 0005 Rev P03 received by the Local Planning Authority on 26th January 2024
- Proposed Floor Plan. Drawing Number: 0003 Rev P02 received by the Local Planning Authority on 29th November 2023
- Proposed Pedestrian Crossing. Drawing Number: AMA/48017/SK004.1 Rev P01 received by the Local Planning Authority on 7th February 2024
- Proposed Landscape Plan. Drawing Number: NSH 011 P101 Rev B received by the Local Planning Authority on 31st October 2023.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 2, 9, 21, 25, 29, 31, 32, 35, 36, 39, 40, 41, 43 and 56 of the County Durham Plan and Parts 2, 4, 6, 7, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust and light) that the development may have upon any nearby sensitive receptors and as a minimum shall include but not necessarily be restricted to the following:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction 2023.
2. Details of methods and means of noise reduction/suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).

7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic which shall include an assessment of the levels of trips generated through the construction phase of the development alongside evidence to demonstrate the development will not adversely impact on air quality.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

4. No 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 2 site investigation 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.

5. No development shall commence until a Biodiversity Management and Monitoring Plan (BMMP) shall be submitted to and approved in writing by the Local Planning Authority. The BMMP shall demonstrate how the specific on-site biodiversity net gain units that are to be created on the site (as shown on Habitats Map -Proposed. Figure 2 as contained in 'Biodiversity Metrics' Report dated February 2024) will be achieved, managed and maintained on site, and will include a mechanism for reporting to Durham County Council in Years 2, 5, 10, 15, 20 and 30 following habitat creation. The works shall be carried out in accordance with the approved details and thereafter be retained and managed as detailed.

Reason: In the interests of achieving a biodiversity net gain in accordance with Policy 41 and 43 of the County Durham Plan.

6. No development above the damp proof course level shall be undertaken until details of 6no. active electric vehicle charging points and 24no. passive electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the electric vehicle charging points shall be constructed in accordance with the approved details and 6no. active electric vehicle charging points shall be brought into use before the first use of the development hereby approved and retained in perpetuity unless replaced with an equivalent or better low carbon vehicle power source.

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan, Part 9 of the National Planning Policy Framework and Parking and Accessibility SPD 2023.

7. Notwithstanding the details submitted as part of the application, no development above damp-proof course level shall be undertaken until details of all means of enclosure and knee rails of the site shall be submitted to and approved in writing by the Local Planning Authority. The means of enclosures and knee rails shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

8. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on 'Retained Trees shown on Proposed Layout with Protective Measures Indicated' Drawing Number: AIA TPP as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

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

9. Prior to the first use of the development hereby approved, the access, vehicle parking and pedestrian footpath as shown on 'Proposed Site Plan' Drawing Number: 0002 Rev P03 received by the Local Planning Authority on 26th January shall be constructed in accordance with the approved details and made available for use.

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

10. Prior to the first use of the development hereby approved, details of at least 13 cycle storage and/or cycle parking facilities compliant with the Council's Parking and Accessibility SPD 2023 shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details and made available prior to the first use of the development. The approved provision shall be available for the use of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel in accordance with Policy 21 of the County Durham Plan, Part 9 of the National Planning Policy Framework and the Parking and Accessibility SPD 2023.

11. The development hereby approved shall not be brought into use until the pedestrian crossing as shown on 'Proposed Pedestrian Crossing' Drawing Number: AMA/48017/SK004.1 received by the Local Planning Authority on 7th February 2024 has been constructed in accordance with the approved details and made available for use.

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

12. Prior to the first use of the development hereby approved, a Building Research Establishment Environmental Assessment Method (BREEAM) final certificate to demonstrate the buildings minimum rating of 'very good' (or any future national equivalent standard) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development achieves a sustainable form of development to comply with Policy 29 of the County Durham Plan.

13. Prior to the first use of the development hereby approved, details of any external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. The details provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The

external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. Prior to the first use of the development hereby approved, the habitat retention and creation as shown on Habitats Map -Proposed. Figure 2 as contained in 'Biodiversity Metrics' Report dated February 2024 shall be carried out on the site.

Reason: In the interests of achieving a biodiversity net gain in accordance with Policy 41 and 43 of the County Durham Plan.

15. Prior to the first use of the development, a Travel Plan (conforming to the National Specification for Workplace Travel Plans, PAS 500:2008, Bronze level) comprising immediate, continuing or long-term measure to promote and encourage alternatives to single occupancy car use shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include mechanisms for monitoring and review over the life of the development and timescales for implementation. The Approved Travel Plan shall thereafter be implemented, monitored and reviewed in accordance with the approved details.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

16. 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.

17. The development hereby approved shall be carried out in accordance with the 'External Finishes' Specification as shown on 'Proposed Elevations' Drawing Number: 0005 Rev P03 received by the Local Planning Authority on 26th January 2024.

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

18. The drainage for the approved development shall be carried out in accordance with the following:

- Flood Risk and Drainage Impact Assessment, Doc Ref: P22-231-ZZ-XX-HYD-RP-C-9000 Status: S4 and Issue Number: P05 received by the Local Planning Authority on 20th February 2024.

Reason: To ensure effective drainage measures and sustainable principles are adhered to, and to safeguard the proposed development from flood risk, whilst not increasing flood risk elsewhere in accordance with Part 14 of the NPPF and Policy 35 of the County Durham Plan.

19. No deliveries shall be taken or dispatched from the site or servicing of the building shall take place between the hours of 23:00 to 06:00 on any day.

Reason: In the interests of the residential amenity of the surrounding area to comply with Policy 31 of the County Durham Plan.

20. The use of the site and building shall not be open for customer access outside the hours of 06:00 to 23:00 Monday to Saturday and Bank Holidays and 09:00 to 18:00 on Sundays. No customers shall remain on the premises outside the hours of 06:00 to 23:00 Monday to Saturday and Bank Holidays and 09:00 to 18:00 on Sundays.

Reason: In the interests of the residential amenity of the surrounding area to comply with Policy 31 of the County Durham Plan.

21. The development hereby approved shall comply with the details of '4.3 Fixed Plant Noise of the Noise Impact Assessment' (Reference: NIA/10965/23/11191/v1/Aldi Mill Road, Durham' for the lifetime of the development.

Reason: In the interests of the residential amenity of the surrounding area to comply with Policy 31 of the County Durham Plan.

22. The development hereby approved shall be carried out in accordance with 'Arboricultural Method Statement' by All About Trees received by the Local Planning Authority on 31st October 2023.

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

23. All planting, seeding or turfing and habitat creation as shown on 'Proposed Landscape Plan' Drawing Number: NSH 011 P101 Rev B and 'Planting Schedule' 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.

24. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

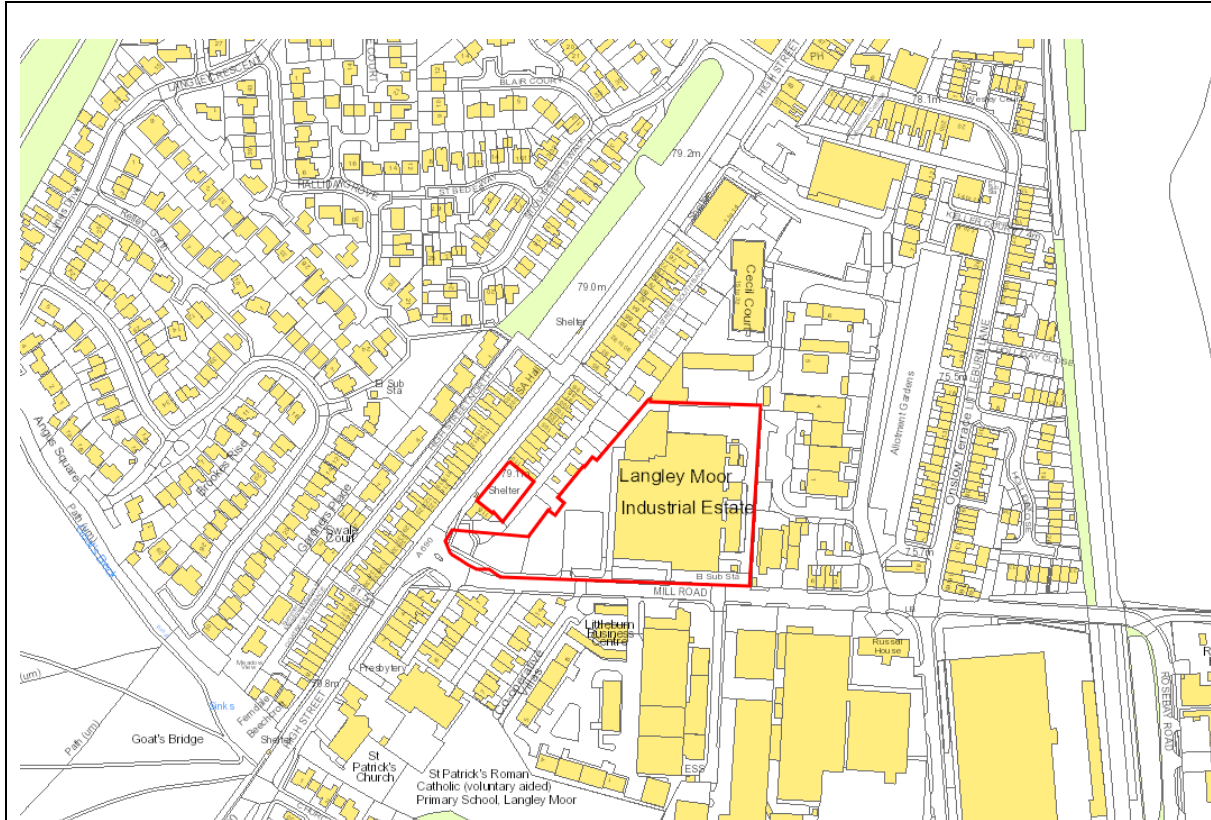
No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

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

BACKGROUND PAPERS

- Submitted Application Forms, Plans and supporting documents
- National Planning Policy Framework
- The County Durham Plan (CDP) 2020
- Parking and Accessibility SPD 2023
- Statutory consultation responses
- Internal consultation responses
- External consultation responses



<p>Planning Services</p>	<p>Demolition of existing industrial building and erection of a retail unit (Class E) with associated car parking, hard and soft landscaping and associated works</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of His Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2023</p>	<p>Comments</p>	
	<p>Date:</p>	<p>9th July 2024</p>