



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	4/11/00040/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Application for new outline planning permission to replace extant permission (08/00138 as varied by 08/00989/VOC and 09/00493/VOC for retail development including details of means of access with all other matters reserved) in order to extend time period for implementation
<b>NAME OF APPLICANT:</b>	Ogden Group of Companies
<b>ADDRESS:</b>	Land adjacent to entrance of South Bowburn Industrial Estate, Durham Road, Bowburn, Durham
<b>ELECTORAL DIVISION:</b>	Durham South
<b>CASE OFFICER:</b>	Peter Herbert, Principal Planner, 0191 3018723, <a href="mailto:peter.herbert@durham.gov.uk">peter.herbert@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application site lies close to the southern end of Bowburn South Industrial Estate.
  2. The land is bordered by estate roads to the west and south, the A177 to the east, and open land to the north.
  3. The current outline planning permission pursuant to the site is for retail development including means of access to provide 2650 sq m gross retail floor space, of which not more than 1350 sq m net shall be for convenience goods.
  4. The permission requires a reserved matters application to be submitted by 18 April 2011, and development to begin by 18 April 2013.
  5. As a retail operator has yet to come forward, the applicants, who are the land owners, wish to renew the outline planning permission.
  6. The application is supported by a geotechnical desk study report and flood risk assessment.
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## **PLANNING HISTORY**

7. Outline planning permission was granted in 2008 for 2450 sq m retail floorspace including means of access ( all other matters reserved).

8. A variation of planning condition 12 was granted in May 2009 allowing not more than 1500 sq m gross (1000 sq m net) to be used for the sale of convenience goods, but with no overall unit size restriction.

9. A further variation of planning condition 12 was granted in July 2011 allowing not more than 1350 sq m net convenience goods retail floorspace.

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## **PLANNING POLICY**

### **10. NATIONAL POLICY:**

Planning Policy Statement 1: Delivering Sustainable Development sets out the Government's overachieving planning policies on the delivery of sustainable development through the planning system.

Planning Policy Statement 4: Planning for Sustainable Economic Growth outlines the Government's objectives to help achieve sustainable economic growth including the positive approach to be taken to development that helps to build prosperous communities, promote regeneration and tackle deprivation.

Planning Policy Guidance note 13: Transport seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### **11. REGIONAL POLICY:**

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

In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the forthcoming Local Government Bill becomes law, and weight can now be attached to this intention. The following policies are considered relevant:

Policy 4 (The Sequential Approach to Development) provides that a sequential approach to the identification of land for development should be adopted to give priority to previously developed land and buildings in the most sustainable locations.

Policy 7 (Connectivity and Accessibility) seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.

Policy 8 (Protecting and Enhancing the Environment) seeks to promote measures such as high quality design in all development and promoting development that is sympathetic to its surroundings.

Policy 24 (Delivering Sustainable Communities) refers to the need to concentrate the majority of the Region's new development within the defined urban areas, and the need to utilise previously developed land wherever possible.

Policy 25 (Urban and Rural Centres) identifies key locations for the development of new leisure and retail facilities in the Region. New development should be consistent with the scale of the centre to ensure enhanced vitality and viability.

Policy 54 (Parking and Travel Plans) promotes the minimisation of parking provision and travel plans for non-residential developments in order to encourage sustainable modes of transport.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at:*  
<http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>

## **12. LOCAL PLAN POLICY**

Policies EMP8d (General Industrial Estates) and S6 (Village Shops) both apply to the application site, offering the choice of General Industrial (B2) or village shops as being acceptable land uses.

Policy T1 (Traffic Generation – General) precludes development proposals likely to lead to a level of traffic generation prejudicial to highway safety.

Policy T8 (Traffic Management) requires traffic management measures where appropriate to improve highway safety, residential amenity and ease congestion.

Policy T10 (Parking – General Provision) seeks appropriate levels of off street parking associated with new development proposals.

Policy T20 (Cycling – Provision of Cycle Parking) requires cycle parking provision where appropriate.

Policy E14 (Protection of Existing Trees) requires existing tree and hedgerow protection during new development construction

Policy E16 (Protection and Promotion of Nature Conservation) has the objective of promoting nature conservation.

Policy E24 (Ancient Monuments and Archaeological Remains) seeks to protect significant historic remains.

Policy H13 (Residential Areas – Impact upon Character and Amenity) seeks to prevent development or changes of use which would result in significant harm to the character or appearance of residential areas, or the amenities of residents within them.

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Policy U8A (Disposal of Foul and Surface Water) aims to ensure local flooding does not result from new areas of hard surfacing.

Policy U10 (Natural Flood Plains) requires the consideration of flood risk.

Policy U11 (Development on Contaminated Land) requires sites where there is the possibility of contamination to be fully investigated and remediated where necessary.

Policy Q7 (Layout and Design – Industrial and Business Development) requires high quality layout and design in respect of new commercial development.

Policy Q15 (Art in Design) requires elements of art to be incorporated within significant developments.

Policy S1A (Retail Hierarchy) has as its objective the protection of the vitality and viability of the local retail hierarchy.

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*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **13. STATUTORY RESPONSES:**

The Highways Agency offers no objection to planning permission being renewed.

The Highway Authority offers no objection, subject to the same planning conditions being imposed as before.

### **14. INTERNAL CONSULTEE RESPONSES:**

None

### **15. PUBLIC RESPONSES:**

Cassop Cum Quarrington Parish Council raise no objections

### **16. APPLICANTS STATEMENT:**

The applicants consider that a new outline planning permission should be granted as the considerations against which the original consent was measured have not materially changed.

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*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=11/00040/OUT>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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17. On 1st October 2009, the Department for Community and Local Government brought into legislation allowing the extension of implemented planning permissions via the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261). This measure has been introduced in order to make it easier for developers and Local Planning Authorities to keep planning permissions

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alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve. This procedure allows applicants to apply to the Local Planning Authority for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development.

18. Government guidance states that in current circumstances, Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission.

19. However, this process is not a rubber stamp. Local Planning Authorities may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably. Equally, the primary legislation with regards to the imposition of conditions remains unchanged meaning that members can apply different conditions to those originally attached if they so wish.

20. In the case of this proposal, there has been no material change in respect of the planning criteria against which this development must be judged.

21. Furthermore, no objections have been received regarding a further planning permission being granted.

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## **CONCLUSION**

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22. In 2008 when planning permission was first granted it was concluded that in land use, highway safety and retail impact terms, the proposal met the objectives of the relevant planning policies.

23. Those policy objectives have not changed, nor have other material considerations. Accordingly, there is no reason to withhold a new planning consent.

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## **RECOMMENDATION**

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

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved. Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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2. Approval of the details of layout, scale, appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained in writing from the Local Planning Authority before any development is commenced. Reason: To ensure that a satisfactory form of development is obtained in accordance with Policy Q7 of the City of Durham Local Plan 2004.

3. No development shall take place until a scheme showing the means by which foul sewage and surface water generated as a result of the development are to be catered for has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be carried out in accordance with the approved details before any part of the development is occupied. Reason: To ensure that proper means are provided for the disposal of foul sewage and surface water from the development in accordance with Policy U8a of the City of Durham Local Plan 2004.

4. When application is made to the Local Planning Authority for approval of reserved matters, that application shall be accompanied by a scheme of landscaping and tree planting indicating, inter alia, the number, species, heights on planting and positions of all trees in respect of the land to which that application relates, together with details of post planting maintenance and such a scheme shall require the approval of the Local Planning Authority in writing before any development is commenced. Such a scheme as approved by the Local Planning Authority shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made goods as and when necessary, unless the Local Planning Authority gives written consent to any variation. Reason: In the interests of visual amenity in accordance with Policy Q7 of the City of Durham Local Plan 2004.

5. The existing trees and hedges on the site shall be retained and shall not be felled, lopped or topped without the written consent of the Local Planning Authority. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased shall be replaced in the same position with trees of the same species and, as nearly as possible, of the same maturity as those removed having regard for current arboricultural practice. Reason: In the interests of visual amenity in accordance with Policy Q7 of the City of Durham Local Plan 2004.

6. That before development commences, agreement shall be reached with the Local Planning Authority regarding those trees, shrubs and hedges which shall be retained. These shall be properly fenced off from those parts of the land to be developed and shall remain so protected, to the satisfaction of the said Authority, until the cessation of building works. Details of this fencing shall be submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of visual amenity in accordance with Policy Q7 of the City of Durham Local Plan 2004.

7. There shall be no storage in the open of goods, materials, equipment or waste materials, except in areas to be approved in writing by the Local Planning Authority. Reason: In the interests of visual amenity in accordance with Policy Q7 of the City of Durham Local plan 2004.

8. No sales shall take place from the premises until there have been submitted to and approved in writing by the Local Planning Authority details of refuse storage and litter

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containing facilities and all such approved facilities have been provided. Reason: In the interests of visual amenity in accordance with Policy Q7 of the City of Durham Local Plan 2004.

9. No development shall take place until the applicant has secured the implementation of an agreed phased program of archaeological works, to include assessment, evaluation, and where appropriate mitigation, in accordance with a written scheme of investigation. This should be submitted by the applicant and approved by the Local Planning Authority. Reason: This is within an area of high archaeological potential in accordance with Policy E24 of the City of Durham Local Plan 2004

10. No development shall commence until a scheme to deal with site contamination has been agreed in writing with the Local Planning Authority. The scheme shall include an investigation and assessment to identify the extent of contamination, with measures taken to avoid risk to the public, buildings and the environment when the site is developed. These measures shall be fully implemented and validated in writing prior to commencement of construction of any buildings. Reason: To protect Controlled Waters by ensuring that the remediated site has been reclaimed to an appropriate standard in accordance with Policy U11 of the City of Durham Local Plan 2004.

11. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the LPA. Roof water shall not pass through the interceptor. Reason: To prevent pollution of the water environment in accordance with Policy U8a of the City of Durham Local Plan 2004.

12. Not more than 1350 sq m net of the retail floorspace hereby approved shall be used for the sale of convenience goods. Reason: In the interests of protecting the vitality and viability of all centres within the local retail hierarchy, in accordance with the objectives of City of Durham Local Plan 2004 Policy S1A

13. Prior to the commencement of the development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local planning authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained thus in perpetuity. Reason: In the interests of sustainable construction and energy generation to comply with the aims of the Regional Spatial Strategy North East Policy 38 and Planning Policy Statements 1, 3 and 22.

14. No development shall commence until a scheme for the delivery of a "percent for art", in accordance with the objectives and provisions of Policy Q15 of the City of Durham Local Plan 2004, has been agreed in writing with the Local Planning Authority. The agreed scheme shall thereafter be implemented within a timescale that will form part of the aforementioned agreement. Reason: In accordance with the objectives of City of Durham Local Plan 2004 Policy Q15.

15. The retail floorspace hereby approved shall not open for trading until the new traffic signals at the site access from the A177 are fully operational. Reason: In the interests of highway safety, in accordance with the objectives of City of Durham Local Plan 2004 Policy T8.

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16. A detailed Travel Plan shall be approved in writing by the Local Planning Authority within 6 months of trading commencing from any of the hereby approved retail floorspace and implemented in full accordance with the approved terms. The approved Travel Plan shall be reviewed annually in conjunction with the Local Planning Authority and the County Highway Authority. Reason - In the interests of reducing the traffic impact of the approved development.

17. No development shall commence until details of the means of delivery to, and servicing of, the hereby approved retail floorspace have been agreed in writing with the local Planning Authority. Once agreed, the terms of that agreement will be fully complied with. Reason: In the interests of highway safety, in accordance with the objectives of City of Durham Local Plan 2004 Policy T8.

18. Prior to development commencing, details of car parking layout and cycling facilities within the site shall be agreed in writing with the Local Planning Authority. Thereafter, the terms of that agreement shall be fully complied with. Reason: In accordance with the objectives of City of Durham Local Plan 2004 Policies T10 and T20.

19. An up to date Ecological Assessment of the site, together with any appropriate protected species mitigation measures, shall be submitted with any Reserved Matters submissions to the Local Planning Authority for approval and the development must thereafter be carried out in accordance with those approved details. Reason: In the interests of the preservation of protective species and nature conservation, in accordance with the objectives of City of Durham Local Plan Policy E16.

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## **REASONS FOR THE DECISION**

1. The proposed development is considered acceptable having regard to the following policies of the City of Durham Local Plan 2004: EMP8d, S6, T1, T8, T10, T20, E14, E16, E24, H13, U8A, U11, Q7, Q15, and S1A.

2. More specifically, this proposal constitutes a renewal of a still acceptable development proposal that raises no new issues, the material considerations of which have not changed.

3. No objections have been raised to this proposal by any party.

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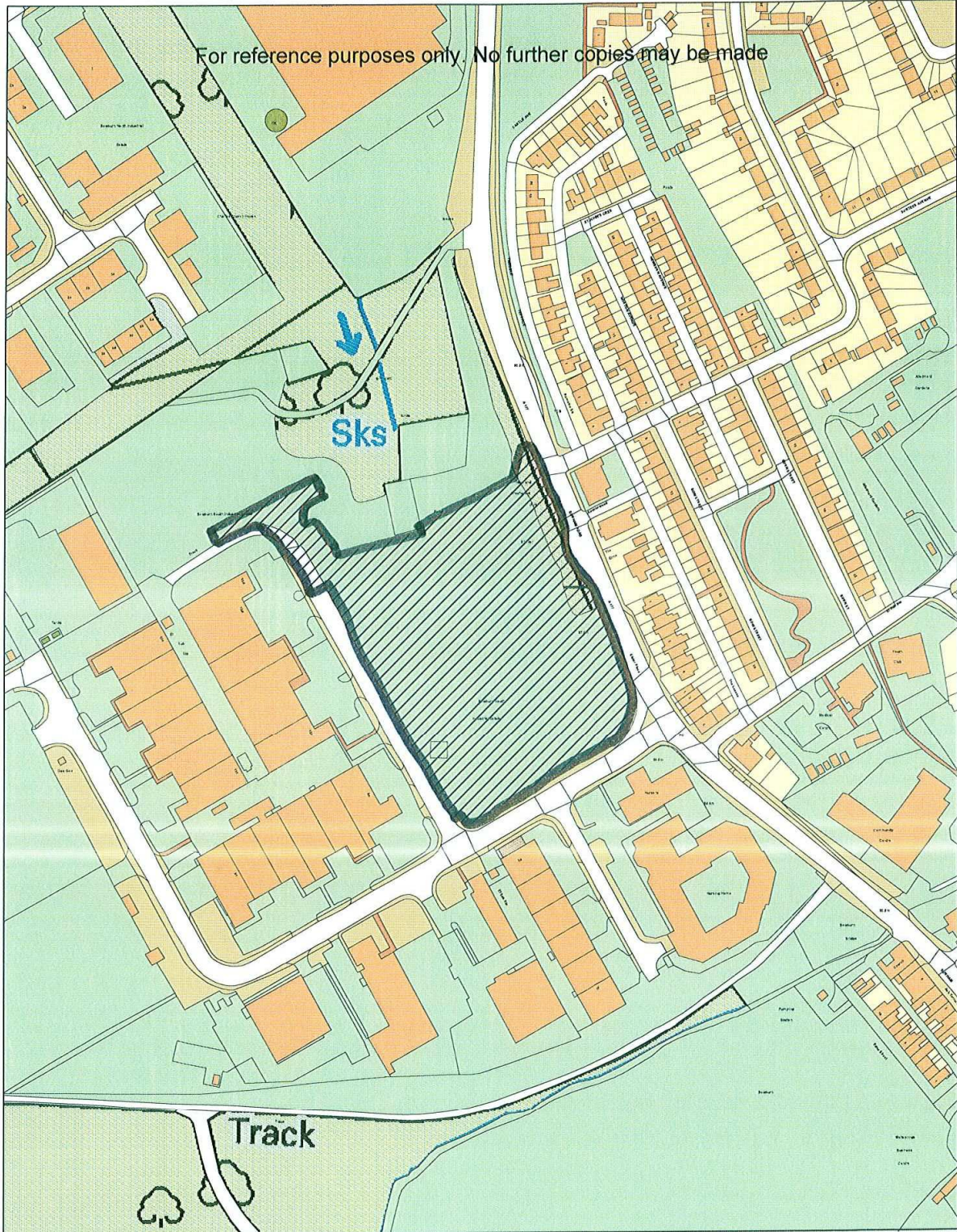
## **BACKGROUND PAPERS**

Submitted Application Forms and Plans  
Supporting geotechnical and flood risk assessment  
Planning Policy Statements / Guidance, PPS1 and PPS4  
North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008  
City of Durham Local Plan 2004  
Response from Highway Agency, Highway Authority and Parish Council





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**Planning Services**

4/11/00040/OUT

Land adjacent to entrance of South Bowburn Industrial Estate

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**Comments**

**Date**

25 March 2011

**Scale**

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