

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/15/01765/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Demolition of existing public house (full permission) and outline planning permission for the erection of a pub/restaurant (Use Classes A3/A4), gym (Use Class D2), restaurant (Use Classes A3/A5) and hotel (Use Class C1), with all matters reserved except for access, and full planning permission for the erection of a drive-through coffee shop (Use Classes A3/A5) and retail bakery unit (Use Class A1), along with associated car parking, servicing and landscaping.
<b>NAME OF APPLICANT:</b>	Initial Developments (Properties) Ltd
<b>ADDRESS:</b>	Thinford Inn Thinford Lane Thinford Durham DH6 5JY
<b>ELECTORAL DIVISION:</b>	Coxhoe
<b>CASE OFFICER:</b>	Colin Harding Senior Planning Officer 03000 263945 <a href="mailto:colin.harding@durham.gov.uk">colin.harding@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site extends to 1.99 ha and is located adjacent to, and to the north-east of, the Thinford roundabout junction between the A688 and A167. It is located just over 2 km to the east of Spennymoor Town Centre and around 8km south of Durham City Centre. The application site lies immediately to the east of the DurhamGate development, a major residential-led mixed use scheme, which currently includes a Marston's pub/restaurant, two office buildings and a growing number of residential housing estates. The site itself is also bounded to the west by a lay-by, a belt of trees and the A167; to the south by the A688, beyond which is Thinford Nurseries and a McDonalds drive-through restaurant; and to the north and east by agricultural land.
2. The south-westernmost part of the application site is currently occupied by the Thinford Inn public house, along with a car park with around 70 parking spaces. The public house does not benefit from any statutory heritage designation having recently

been de-listed, and has been vandalised and fire-damaged since being left vacant in 2012. The remainder of the site to the north and east comprises agricultural land.

3. There are no designations within 2.5km of the site. A Public Right of Way runs to the east of the site. The site is not designated for any specific purpose in either the City of Durham Local Plan or the emerging County Durham Plan.

### The Proposal

4. The application is in two parts, and forms a hybrid application. It seeks full planning permission for the demolition of the existing public house and the erection of a drive-through coffee shop (Use Classes A3/A5) and retail bakery unit (Use Class A1), along with associated car parking, servicing and landscaping ('Phase 1'). Outline permission is also sought for the erection of a pub/restaurant (Use Class A3/A4), gym (Use Class D2), restaurant (Use Class A3/A5) and hotel (Use Class C1) with all matters reserved apart from access ('Phase 2').
5. In terms of the access arrangements, there would be an entrance from the A167 to the north of Thinford roundabout for southbound traffic, and an entrance/exit on to the A688 to the east of the roundabout.
6. Details of the proposed bakery unit and coffee shop are provided, as full planning permission is sought for these elements. They would comprise modern retail units, with monopitch roof and large areas of glazing. As only outline permission is sought for the other elements of the proposal comprising Phase 2, no details of these are provided, however the gross floor spaces for each element have been provided.
7. Full planning permission is sought for a 120sq.m Greggs Bakery unit, and a 200sq.m Costa Coffee. Outline planning permission is sought for; 1,900sq.m gym, 250sq.m restaurant, 600sq.m family pub/restaurant and an 80 bed hotel.
8. This application is reported to Committee as it represents a major development. The application has been screened for Environmental Impact Assessment (EIA) purposes, and is considered to not require an EIA.

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## **PLANNING HISTORY**

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9. There have been several applications at the site, however all relate solely to signage and advertisements at the Thinford Inn itself, whilst it was still operational.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should proceed without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
11. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree

of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal;

12. *NPPF Part 1 – 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 of a low carbon future.
13. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
14. *NPPF Part 7 – Requiring Good Design.* 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. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
15. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 10 – Meeting the challenge of climate change, flooding and coastal change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
17. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
18. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

19. The Government has recently cancelled a number of planning practice guidance notes, circulars and other guidance documents and replaced them with National Planning Practice Guidance (NPPG). The NPPG contains guidance on a number of issues, and of particular relevance to this proposal is guidance relating to design, flood risk, travel plans, transport assessments and statements in decision-taking;

<http://planningguidance.planningportal.gov.uk/> (National Planning Practice Guidance)

#### **LOCAL PLAN POLICY:**

##### The City of Durham Local Plan

20. *Policy E7 (Development outside of Settlement Limits)* states that development in the countryside will only be permitted where it accords with other criteria based policies.
21. *Policy E14 (Existing Tree and Hedgerows)* requires development proposals to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows, wherever possible.
22. *Policy E15 (New Trees and Hedgerows)* encourages tree and hedgerow planting.
23. *Policy E16 (Nature Conservation)* requires development to identify and mitigate any nature conservation interest that may be on a site.
24. *Policy E21 (Historic Environment)* seeks to preserve and enhance the historic environment by requiring development proposals to minimise adverse impacts on significant features of historic interest, and encourages the retention, repair and re-use of buildings which are not listed, but are of visual or local interest.
25. *Policy E24 (Ancient Monuments and Archaeological Remains)* seeks to preserve nationally significant archaeological remains in situ. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ, and where preservation in situ is not justified by the securing of a programme of archaeological investigation.
26. *Policy EMP16 (Employment in the Countryside)* states that employment uses in the countryside which are not essential for agricultural or mineral purposes, or constitute diversification or re-use of existing buildings, will only be approved where there will not be an unacceptable adverse impact upon the character and appearance of the countryside or amenity of nearby residents, where the development can be served by roads capable of accommodating the increase in traffic, where nature conservation interests would not be prejudiced, and where there would be no adverse impact upon the water environment.
27. *Policy T1 (Traffic – General)* states that planning permission will not be granted for development that would generate traffic which would be detrimental to highway safety.
28. *Policy S1A (Retail Hierarchy)* seeks to protect the vitality and viability of all centres in the retail hierarchy.
29. *Policy S9B (Major Out of Centre Proposals)* states that where an identified need for large-scale retail cannot be met through existing allocations, preference should be given to sites within the city centre, followed by district centres at Sherburn Road/Dragon Lane and the Arnison Centre, and then local shopping areas within the built up area of Durham City. Where such development cannot be accommodated in

these locations, it will only be acceptable elsewhere if; it satisfies a demonstrable need and conforms to the sequential approach, does not adversely affect the viability and viability of any existing centre within and outside of the district, would not give rise to serious access problem, would not result in a substantial increase in car usage, and it can be shown that the site is accessible by a choice of means of travels.

30. *Policies Q1 (General Principles – Designing for People) and Q2 (General Principles – Designing for Accessibility)* seek to ensure that the layout and design of new development takes account of the requirements of its users.
31. *Policy Q3 (External Parking Areas)* seeks to ensure that proposed parking areas are suitably landscaped, surfaced, demarcated, lit and signed.
32. *Policy Q5 (Landscaping – General Provision)* states that all development that has an impact on the visual amenity of the area in which it is located will be required to incorporate a high standard of landscaping in its overall design and layout.
33. *Policy Q6 (Structural Landscaping)* states that all new development located on the outer edge of settlements or exposed sites will be required to include peripheral structural landscaping within the site in order to minimise any adverse visual impact.
34. *Policy Q7 (Layout and Design – Industrial and Business Development)* requires new industrial and business development to be of a standard appropriate to the area within which it is located and have regards to Policies Q1 and Q2.
35. *Policy U8A (Disposal of Foul Water)* requires new developments to provide satisfactory arrangements for the disposal of foul and surface water discharges.

#### The County Durham Plan

36. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

*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.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf> (City of Durham Local Plan) <http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

37. *Historic England* – No objections – It is considered that it is not necessary for the application to be notified to Historic England.
38. *Environment Agency* – No objections – The proposal falls outside the scope of matters on which the Environment Agency is a statutory consultee.
39. *Northumbrian Water* – No objections – Subject to the imposition of a condition to secure a detailed scheme for the disposal of foul and surface water.
40. *Highways* – No objections – Although some concerns were initially raised with regards to the potential for rat-running, these have now been addressed. There are no outstanding highways issues that would result in severe impact upon the highway network.

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

41. *Spatial Policy* – Objection - There are a number of concerns with regards to the proposals, particularly the development of the area which falls outside of the footprint of the former Thinford Inn.
42. *Economic Development* – Objection – The application proposes town centre uses in an out of centre location, a considerable distance from Spennymoor Town Centre. The development of town centre uses in this location has the potential to further undermine both Spennymoor and Ferryhill town centres. A further concern is that the application proposes uses that are already planned as part of the DurhamGate development. The scale of the DurhamGate development gives it a strategic importance in the County and the region, and the Council places a great deal of importance upon its delivery and its contribution to the wider regeneration of Spennymoor as it is estimated to accommodate over 2000 jobs upon completion.
43. *Landscape Section* – Objection – Whilst phase 1 will be contained, the visual impact of phase 2 will be significant when seen from the open countryside on the eastern approaches. The landscape character will be significantly affected, with the loss of open farmland and an encroachment into the countryside.
44. *County Ecologist* – No objections. The ecological report is considered to be sound. The proposed mitigation is welcome.
45. *Environmental Health and Consumer Protection (Contaminated Land)* – No objections.
46. *Environmental Health and Consumer Protection (Noise)* – No objections – It is noted that the existing noise climate on the site is likely to be high due to traffic noise, and the nature of the development is commercial, although there is a residential property to the north of the site. There is the potential for later night uses on the northern part of the site to be noise sources, however noise controls can be secured via a suitable condition. Further details of lighting plans and extraction systems will also be required.
47. *Public Rights of Way* – No objections – There are no recorded public rights of way within, or adjoining the site.
48. *Sustainability* – No objections – In relation to the outline permission site there are concerns regarding the scale of development and the potential for unrestricted sprawl into the countryside. However, there are no issues with the site locationally. Few details have been provided with regards embedded sustainability measures.

49. *Employability Team* – No objections – At completion the development could lead to approximately 141 FTE job opportunities.
50. *Drainage and Coastal Protection* – Objection – It is unclear from the submitted information where the existing surface water drainage system discharges to. This must be established if existing outfall pipes are to be used for the proposed development. Overall there is insufficient information to approve the proposal in relation to flood risk and allowable discharge.
51. *Archaeology* – Objection - As an area of greenfield land over 1 hectare, it is the practice of this office, to request field evaluation pre-determination, in this instance geophysics potentially supplemented by trial trenching as necessary. I note the DBA arrives at this conclusion. This field evaluation is necessary for both the LPA, and the applicant, to understand the issues associated with archaeology on the site prior to determination and development commencing. The assessment will seek to identify if any heritage assets are present, and what their significance might be. This would include any features of national significance that may warrant efforts to preserve them in-situ (often called 'show-stoppers') as well as more regionally/locally significant features that will require mitigation measures during the development phase.

**PUBLIC RESPONSES:**

52. The application has been advertised by means of a site notice, advertisement in the local press, and letters of notification have been sent to adjoining properties.
53. Objections have been received from 5 parties, including a business based at DurhamGate, a residential occupier on the DurhamGate development, and CAST; the consortium who are developing DurhamGate. Further objections have been received from local residents.
54. The main reasons for objection are summarised below;
  - The uses proposed directly replicate uses proposed and already approved at DurhamGate
  - The proposed development has the potential to stall or prevent the completion of DurhamGate; a strategic redevelopment initiative.
  - The application is contrary to the Spennymoor Regeneration Plan which seeks to support the DurhamGate development.
  - DurhamGate is a more logical location for these uses as it would not require residents to cross the A167 to reach them.
  - Insufficient detail of floorspace figures has been provided to allow the LPA to carry out a full assessment of the proposed development upon town centres.
  - The A167 is a natural barrier to prevent development encroaching into the countryside. The development would constitute development outside of existing settlement boundaries.
  - Concerns are raised over the specification and potential performance of proposed highways improvements to accommodate the development.
  - Increase in vehicular movement at an already busy junction.
  - Spennymoor does not require any more fast food outlets
  - The existing building is not an eyesore, and compliments the Thinford Nursery, and provides a positive character to the entrance to Spennymoor. It's retention should not be dismissed.
  - CAST should complete their open space provision obligations before moving onto other projects. [*n.b this application has not been submitted by CAST*]

- Loss of privacy and light due to location of the proposed hotel.
- Waste management and resultant odour.
- Levels of noise generated at hotel.

55. Letters of support have been received from 3 Spennymoor residents, the main points of support being;
- DurhamGate has been a disappointment and is making no progress. If it is not going to deliver, then other developments should be given priority.
  - The Thinford Inn is an eyesore, the development will improve the area, and if the site can generate jobs and revenue for Spennymoor then it should be supported.
  - Traffic should not be an issue as when the Thinford Inn was open, it caused no great issues.

#### **NON-STATUTORY REPRESENTATIONS**

56. *Campaign for the Protection of Rural England* – Objections – CPRE do not object to the redevelopment of the Thinford Inn, providing a replacement development is of a similar type and scale. However, Phase 2 of the proposed development extends into open countryside, contrary to the spirit of the NPPF. Further, whilst this site might be within reasonable reach of a number of communities in terms of distance, the routes to it are distinctly unpleasant from a cycling and pedestrian point of view.
57. *Cyclists' Touring Club (CTC)* – Raises Concerns – For most journeys there is currently no alternative to using fast, busy roads to reach the development by bicycle. Until the A167 "Cycle Superoute" is in place there is no direct cycle route from Ferryhill to the development. Concerns are also raised over the current situation in negotiating Thinford roundabout by bicycle, and also that the proposed cycle racks appear to be uncovered.
58. *Durham Constabulary* – No objections – The crime risk assessment in this location is low. Traffic calming measures may be required to deter drivers using the new development as a rat-run.

#### **APPLICANTS STATEMENT:**

59. The subject application proposes the redevelopment of the Thinford Inn and adjacent land for a range of new commercial leisure and hotel uses, in order to meet the need for additional such facilities within the local area. Whilst occupying a prominent and sustainable position on a key gateway to Spennymoor, the application site is currently in a disused and dilapidated state. The scheme put forward by Initial seeks to attract operators to the area who have historically not sought to invest in town centre locations, and the application submission demonstrates that there is sufficient growth in expenditure within the catchment area to accommodate a range of leisure and food and drink uses.
60. In relation to the sequential approach, none of the potential alternative opportunities identified in Spennymoor and Ferryhill are fully suitable and available to accommodate the proposed development; a conclusion which has been accepted by Council officers. It has also been demonstrated that there would be no significant adverse impact upon either Spennymoor or Ferryhill town centres. Family pub/restaurant, hotel and gym uses need high levels of prominence and accessibility which is sometimes difficult to achieve in town centre or edge of centre locations, particularly in centres of this scale and nature.



61. Whilst the Council's Planning Policy consultation response states that the DurhamGate site is locationally preferable to the application site, this site occupies an out-of-centre location and is not sequentially preferable to the application site. Although the site is located on the opposite side of the A167, there is no material difference in its accessibility to and from Spennymoor town centre. In such circumstances, planning case law has confirmed that sites should be considered equal in terms of the sequential approach.
62. Moreover, despite planning permission having been extant for six years, there is no evidence to suggest that the remaining commercial uses on the DurhamGate site are any closer to being delivered. In contrast, there is market interest in the development now proposed by our client. We consider it to be in Spennymoor's best interests to secure such investment, particularly in the absence of any deliverable sites or opportunities for uses such as gyms or hotels within the town centre.
63. The Council's Planning Policy consultee has also identified a prima facie conflict with saved planning policy E7 regarding the non-brownfield parts of the development which are outside of settlement limits. However limited weight should be attached to Policy E7 given that it comprises part of the City of Durham Local Plan, which was adopted some eight years before the NPPF. Furthermore, this conflict would be mitigated through the implementation of the substantial landscaping scheme proposed.
64. In the context of all of the above, the scheme would also result in the delivery of a number of other positive material considerations, including:
- The redevelopment of a dilapidated (and partially brownfield) site;
  - Significantly enhance local consumer choice;
  - Generate around 141 (FTE) accessible and attainable new job opportunities;
  - Facilitate substantial highway improvements, including the removal of the 'rat run' through the existing lay-by and the widening of the A688 carriageway to provide a significant capacity improvement;
  - Offer the long-term potential to build upon the success of DurhamGate and other commercial developments in the vicinity of Thinford roundabout;
  - Attract new commercial uses to Spennymoor which would not otherwise be accommodated; and
  - Provide additional private sector gym provision in the local area.
65. In overall terms we consider that, when these material considerations are taken into account in the planning balance, the application is one which should benefit from the NPPF's presumption in favour of sustainable development.

*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://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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66. 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 in this instance relate to; the principle of development, landscape and visual impact, impact upon highway safety, scale and design, drainage, ecology, and archaeology and non-designated heritage assets.

## Principle of development

67. For ease and clarity, the consideration of the principle of development comprises three key material points, each of which will be considered in turn. These points are considered to be;
- Development of town centre uses within an out of centre location
  - Compliance with the sequential and impact tests, as set out in the NPPF
  - Impact on DurhamGate and realisation of the Spennymoor Regeneration Masterplan

### *Development of town centre uses within an out of centre location*

68. The application seeks full planning permission for a drive through coffee shop and a retail bakery unit, and outline permission for the erection of a pub/restaurant, gym, restaurant and hotel. The coffee shop and retail bakery have named end users; Costa Coffee and Greggs. The other elements have no end users and would appear speculative.
69. The coffee shop and bakery unit are proposed on the footprint of the former Thinford Inn and the elements that have been submitted in outline (pub/restaurant, gym, restaurant and hotel) are located north and east of this.
70. All of the uses proposed as part of this scheme are defined as town centre uses within Annex 2 of the NPPF and would therefore require justification through the relevant policy tests.
71. Paragraph 24 of the NPPF states that a sequential test to planning applications for main town centre uses should be applied where they are not in accordance with an up-to-date Local Plan. It goes on to state that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. It also states that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
72. In addition to this, NPPF also states that when assessing applications for retail, leisure and office development outside of town centres, an impact assessment should be required. LPAs should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is not a locally set threshold, the NPPF gives a default threshold of 2,500sqm.
73. The City of Durham Local Plan (CDLP) defines a hierarchy of centres through Policy S1A. This identifies the aim of protecting and promoting the vitality and viability of all centres within the hierarchy.
74. CDLP Policy S9B identifies that where there is need for large-scale retail and leisure development, preference should be for sites within the city centre locations, the district centres at Sherburn Road and the Arnison Centre and then local shopping centres within the built up area of Durham City.

75. These policies are considered to be up to date, and NPPF compliant, therefore significant weight can be afforded to them.
76. Although only very limited weight can be afforded to Policy 26 of the County Durham Plan , this policy updates this hierarchy, however the status of the centres within Durham City remains largely unchanged. As the County Durham Plan covers a far bigger area than that within the CDLP, the hierarchy also includes, amongst others, the towns of Spennymoor and Ferryhill.
77. Policy 26 also re-iterates the requirements of National Policy in relation to Sequential and Impact tests. Analysis of local circumstances, as incorporated within Policy 26 of the CDP, which carries limited weight, has indicated a local threshold of 300sqm for impact tests, although in any event the application as whole would exceed the 2500 sq.m threshold for impact tests, as set out in NPPF.
78. The applicants have provided a sequential and impact assessment, these are discussed below.

#### *Sequential Assessment*

79. Despite being located within the former City of Durham District and thus being subject to its Local Plan policies, this location and catchment area is more closely related to Spennymoor and Ferryhill. Therefore for the purposes of the sequential test, it is evidently more realistic to consider whether such a proposal could be located within these centres in the first instance.
80. The applicants have a provided a sequential analysis to support the proposed application which has looked at the towns of Spennymoor and Ferryhill. This level of search is accepted, as it would include the catchment area of the proposed uses in this development.
81. The applicant has dismissed six potential options, five of these in Spennymoor and one in Ferryhill. All of these are sequentially preferable to the application site and are in centre or edge of centre locations.
82. The most prominent and centrally located site considered by the applicants is Festival Walk in Spennymoor. It lies in the heart of the town centre and incorporates a purpose built shopping arcade that suffers from high vacancy rates including the large former Kwik Save unit. The site has a detrimental appearance on the town centre and has long been recognised as an area in need of regeneration. In recognition of this, draft Policy 25 of the County Durham Plan identified the area as a Town Centre Regeneration Area. The policy supports proposals on the site that will improve the retail offer in this area of the town centre. It also identifies a need to resist proposals within edge of or out of town locations that could harm the delivery of Festival Walk.
83. The applicants argue that the site is not suitable to accommodate the range of proposed uses. It is also proposed that the respective business models of the uses proposed are based on the accessibility and proximity to DurhamGate development.
84. Whilst development of this type and scale would be welcomed on Festival Walk, the shopping arcade still houses a number of occupiers; a considerable amount of work needs to be carried out in order to get the site in a position to be developed. Given the issues over timings and availability, the applicant's conclusions on Festival Walk are therefore accepted.

85. The applicants have also dismissed other smaller sites within Spennymoor and Ferryhill, these are:
- Site adjacent to Spennymoor Library, Cheapside
  - Former North Eastern Public House, Clyde Terrace
  - Former Gas Works Site, Carr Street
  - Existing vacant units within Spennymoor town centre
  - Existing vacant units within Ferryhill town centre
86. The principal reason for these sites being dismissed is their size and therefore inability to accommodate the proposed scheme. It is acknowledged that following the publication of the NPPF, there is no longer any requirement to consider disaggregation when applying the sequential approach. This means that for large applications with more than one element proposed, that applicants should not have to seek individual sites for each individual element. Any alternative sites should be capable of accommodating the proposal as a whole. The applicants' conclusions on these sites are therefore accepted, each of the sites is not of a size to accommodate the proposed development.
87. The applicant has not considered DurhamGate within their sequential analysis. Whilst it is acknowledged that sequentially the site is also an out of centre site, the NPPF is clear at Paragraph 24, that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. This point is emphasised within the PPG, again stating that where the proposals 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.
88. In this instance it is therefore important to understand local circumstances. The application site is physically divorced from the main built up area of Spennymoor by the A167 and the large Thinford roundabout. This provides a significant barrier to the town centre in terms of a safe and convenient pedestrian route. DurhamGate is located west of the application site and is therefore both physically closer to the town centre than the application site, and being on the opposite side of the A167 and roundabout has better access to the town centre.
89. As a site DurhamGate is a large mixed use development which has seen the development of new residential and office development as well as a pub restaurant. Alongside these residential and office uses, it currently has an extant planning permission for retail (A1), café/restaurants (A3), a hotel (C1) and day nursery health centre (D1). The site can therefore clearly accommodate many of the uses proposed as part of this application, but it has not been considered by the applicant.
90. It is therefore considered that the DurhamGate site offers a locationally better site to accommodate these uses in terms of its connectivity to the town centre, which is sustainable, available and deliverable. Consequently, it is considered that the sequential test is failed and the development is not acceptable in this regards.

#### *Impact Assessment*

91. The applicant has provided an impact assessment as outlined within the NPPF. As was agreed with the applicant this has focused on potential impacts on Spennymoor and Ferryhill town centres.
92. The applicants have concluded that the proposals would not have any material adverse impact upon planned or committed investment within Spennymoor or

Ferryhill town centres. This is, in part, based on the absence of any directly comparable schemes.

93. The applicants do consider Festival Walk and this is prompted by Policy 25 of the CDP. This policy advises that schemes will be resisted where there are concerns over whether they could impact on the delivery of Festival Walk.
94. Whilst the applicants state that the intention of any redevelopment of Festival Walk should be to provide a more retail focused development, the uses proposed within this scheme would be policy compliant and such investment would be welcomed.
95. However given the current situation with the site and its occupiers as discussed previously, and also the limited weight that can be attributed to CDP Policy 25, a refusal of the application based on impact on investment at Festival Walk would not be justified. The regeneration of Festival Walk requires wider consideration, beyond the scale of development proposed in this application, and with existing occupiers currently being located within Festival Walk, it is unlikely that any firm proposals for the redevelopment of this centre will be forthcoming in the immediate future. Consequently, it is considered that the refusal of the application on the basis of its impact upon the regeneration of Festival Walk, when there is no immediate prospect of that regeneration coming forward in any event, would be unreasonable, and unsustainable on appeal.
96. With regards to impact on the vitality and viability of Spennymoor and Ferryhill town centres, any new development involving town centre uses within the shared catchment is likely to lead to some impact on existing facilities within these centres. The applicants have surmised that the vast majority of uses within the town centres would not be in competition with the new proposed uses. Whilst it is accepted that there is limited hotel accommodation within Spennymoor and Ferryhill town centres, there are however restaurant, pubs, gyms and retail bakeries within them which would potentially be impacted on by development within an out of centre location.
97. The applicants have supplied limited information in relation to the Phase 2 uses proposed in outline (pub/restaurant, gym, restaurant and hotel) and this is due to the speculative nature of these proposals. The application does not provide details of end users and the exact levels of new floorspace that these would introduce. It is accepted that the nature of the application means that has not been possible, however in this regard an exact understanding of impact and trade diversion cannot be fully understood. The applicants have relied on the growth in expenditure on the uses proposed which indicates that expenditure will increase significantly, generally.
98. In understanding impacts on town centre vitality and viability, it is important to understand the relative performance of both Spennymoor and Ferryhill town centres. Clearly certain centres are more resilient than others to competing out of centre development. The most up to date town centre surveys indicate that both centres suffer from high vacancy rates, this is particularly the case in Ferryhill where 20% of units within the town centre are vacant, within Spennymoor this figure stands at 14.8%. Given the vacancy rates and the moderate performance of these centres, there are concerns that the introduction of additional out of centre competing uses, could further undermine the performance of Ferryhill and Spennymoor town centres.
99. A further point to consider is that the applicant fails to consider the cumulative impact of the introduction of these facilities alongside the development of the approved facilities at DurhamGate, although it is highly likely that should these facilities be developed, it will be at the expense of the approved facilities at DurhamGate. However, not being an identified local, or town centre, it is considered that the

potential impact of this development upon DurhamGate is not a matter for extensive consideration. DurhamGate is not afforded protection by local or national planning policy, although as highlighted elsewhere in this report, it can be considered to be locationally preferable to the application site.

100. In light of the above, it is not possible to agree with the assumptions of the applicants in relation to the nature of impact on the vitality and viability of Ferryhill and Spennymoor town centres. National Planning Policy Guidance is clear in stating that it is for the applicant to demonstrate compliance with the impact test in support of relevant applications.
101. *Impact on DurhamGate and the realisation of the Spennymoor Regeneration Masterplan*
102. As identified previously DurhamGate represents a large mixed use development within the town. The Spennymoor Regeneration Masterplan recognises its importance and through this identifies that the Council will 'support Spennymoor as a major employment centre including the Green Lane Industrial Estate and DurhamGate development'. The masterplan highlights the levels of public and private investment and also the importance of DurhamGate to the regeneration of Spennymoor and also its strategic importance for the region. Whilst the Spennymoor Regeneration Masterplan does not form part of the development plan, it has received Cabinet approval and limited weight can therefore be afforded to it.
103. It is acknowledged that given the site's status as out of centre any potential impact on investment cannot be considered under paragraph 26 of the NPPF. However as identified in the sequential test, DurhamGate has clear sustainability and locational advantages over the application site. Paragraph 24 of the NPPF states that preference should be given to edge of centre, and out of centre sites that are accessible and well connected to the town centre. Having regards to location of the development site, in comparison to DurhamGate, across the busy A167, it is clear that the DurhamGate site is more accessible, and therefore preferable in this instance.
104. Given the similar nature of the uses proposed within the application and what has permission at DurhamGate, there are concerns that the application could potentially undermine the delivery and realisation of this development and therefore the wider masterplan for DurhamGate.
105. *Retail Impact Conclusions*
106. In terms of local plan policy, the location of the site at the very edge of the former City of Durham District means that it does not unreasonably conflict with CDLP Policy S1A, which seeks to protect Durham City, and local centres in the main settlements. It is accepted that the proposed development, due to its distance from any of these centres would be unlikely to have a significant impact upon them. However, both Policy S9B of the CDLP, and the NPPF allow for a wider consideration of impact, based upon the area most likely to be affected by an out of centre development, regardless of the former administrative boundaries. In this case, it has been identified that both Ferryhill and Spennymoor would be the relevant centres in this case, and are afforded protection from out of centre retail developments in both instances.
107. Policy S9B states that out of centre retail development will only be acceptable if it satisfies a demonstrable need and conforms to the sequential approach, and does not adversely affect the viability and viability of any existing centre within and outside of the district.

108. Paragraph 27 of the NPPF states that where an application fails to satisfy the sequential test, or is likely to have significant adverse impact upon existing, committed and planned public or private investment in centres, or the vitality and viability of town centres, then planning permission be refused.
109. In this instance it is considered that the proposed development fails to satisfy the sequential test, as suitable and available sequentially preferable sites on the DurhamGate development have been dismissed, and further, that the impact assessment that has been carried out does not provide sufficient evidence to allow a conclusion to be drawn that the proposed development would not be likely to have a significant adverse impact upon the vitality and viability of Ferryhill and Spennymoor town centres. Consequently, the proposed development is considered to be contrary to both Paragraph 27 of the NPPF, and Policy S9B of the CDLP in this respect.

#### Landscape Impact

110. The site lies outside of any settlement boundary as identified within the CDLP, and can therefore be considered to be development in the countryside. Policy E7 of the CDLP can be considered to be up to date and partially consistent with advice contained within the NPPF. Consequently significant weight can be afforded to it.
111. Policy E7 states that development in the countryside will only be acceptable where it accords with a number of other policies in the CDLP. Amongst these, and most relevant is Policy EMP16. Policy EMP16 states that new employment generating uses located in the countryside must not have an unacceptable adverse impact upon the character and appearance of the countryside, in order to be considered to be acceptable.
112. It is considered that the part of the application for which full planning permission is sought, is likely to be acceptable in this respect. "Phase 1" mainly comprises the site of the existing Thinford Inn and would not require significant extension beyond this. However, "Phase 2", for which outline permission is sought, involves the loss of a significant area of open countryside, in the form of an arable field, and also the loss of some existing mature trees and hedgerow.
113. In order to mitigate this impact, the applicants propose a landscaping plan that retains existing features wherever possible, and further, provides a landscaping buffer of 15m width, comprising native woodland planting. This belt would run north to south across the site, forming its eastern boundary.
114. It is considered that the proposed landscaping arrangements would mitigate the proposed development to a degree, nevertheless, this development would intrinsically alter the character of this part of the countryside, and the approach to Spennymoor to a significant degree.
115. At present, when approaching the Thinford roundabout from the east, along the A688, the character is very much rural until you reach Thinford Nurseries on the left, and then Thinford Inn on the right, before immediately reaching the roundabout and the more urban character that it exhibits.
116. Although the proposed development would not extend into the countryside to the west any further than than the existing Thinford Nursery on the southern side of the A688, it should be noted that the nursery buildings are well contained, and the western part of the site contains only mainly lightweight structures, with a rural feeling being maintained. The proposed development would introduce large commercial properties,

some likely to be around three stories in height to the northern side of the A688, which would only serve to create a more urban feel to the approach to the roundabout, that even a 15m tree belt would be unable to completely mitigate. Further, a tree belt of the size proposed would take a significant length of time to mature sufficiently to provide any level of effective level of screening to the development. In the meantime, the development would likely appear as stark and obvious in this countryside location.

117. Consequently it is considered that the proposed development would fail to accord with Policy EMP16 of the CDLP in that it would have an unacceptable adverse impact upon the character of the countryside, and therefore would also be contrary to CDLP Policy E7.

#### Archaeology and Heritage Issues

118. Until recently, the Thinford Inn was a Grade II listed building, however following reassessment by Historic England, which found the building to be younger than originally thought, and also fire damaged, the listing has now been removed.
119. It can however still be considered to be a non-designated heritage asset, although the condition of the building does diminish its significance to a certain extent.
120. Paragraph 135 of the NPPF requires the significance of a non-designated heritage asset to be taken into account in determining the application. In weighing applications that affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance.
121. Policy E21 of the CDLP seeks to encourage the repair and reuse of existing historic buildings.
122. Whilst it would be preferable to retain the existing building in some form and for it to be reused, in this case, the building is considered to be of only limited significance. When weighed against wider public benefits of job creation and economic activity, it would be unreasonable to refuse the application on this basis.
123. The application is accompanied by a desk based archaeological assessment, which concludes that a geophysical survey of the site be undertaken. It has not been possible to carry this out to date due to the field which forms a significant part of the site still containing crops. Paragraph 128 of the NPPF requires developers to submit appropriate desk based assessments and where necessary, field evaluation, with planning applications, in order to understand the level of significance of any archaeological remains that may be present on site.
124. Without the required geophysical survey results, it is not possible to properly assess the presence, or significance of any potential archaeological remains. Consequently the application is considered to be contrary to the NPPF in this regard.

#### Highways

125. Policy T1 of the CDLP seeks to ensure that new development does not have an adverse impact upon the operation of the highway network, or highway safety.
126. The existing layby located next to the Thinford Inn has become at peak times somewhat of a “rat-run” for traffic travelling south on the A167 towards the A688. At present traffic can turn left off the A167, drive through the layby and turn left onto the A688, bypassing the roundabout and its associated queues.



127. This issue has been considered within the proposed development, with a one-way system layout proposed which would introduce a less obvious direct route from A167 to the A688. Whilst rat-running would still be technically possible, it would be more tortuous, less obvious, and less advantageous than at present. Consequently, it is considered likely that it would lead to a certain level of reduction in rat-running incidents, which can be considered to be a benefit of the proposed development.
128. The application also includes other highways improvements, most notably on the A688, where a protected right turn box would be introduced to accommodate traffic turning into the development, and also widening the approach to Thinford roundabout to allow the two lane eastbound approach from the A688 to be extended further west than at present. Concerns previously raised regarding access to the Thinford Nursery site have been addressed by means of "Keep Clear" markings.
129. The submitted Transport Assessment and highways arrangements have been fully considered by the Highways Authority, who consider that the proposed development would not have an unreasonable adverse impact upon the operation of the highway network, and that there is sufficient capacity to accommodate the development. Neither would it have an adverse impact upon highway safety.
130. The application can therefore be considered to be in accordance with Policy T1 of the CDLP.
131. In terms of other methods of travel, the application is considered to perform less well. The site is located adjacent to the busy Thinford Roundabout, and the A167 lies between the site and Spennymoor. In order to access the site by foot, the roundabout needs to be negotiated, which requires the use of several pedestrian crossings. Arguably, access to the site is neither easy nor pleasant.
132. Access by bicycle is worse, with there being a lack of cycling infrastructure incorporated within the roundabout, or on approaches to it in relation to access to this site. The roads in this vicinity are busy, and the junction complex, which is wholly discouraging to cyclists, casual or otherwise. The pedestrian crossings are designed for use on foot only, presenting cyclists with the choice of either navigating the busy junction, or dismounting and using the pedestrian crossings. It is considered that neither option is particularly attractive or convenient.
133. These concerns have been raised by both CPRE and CTC, and whilst they are not considered to be highway safety issues, they are issues of convenience and general site sustainability, and further highlight the locationally preferable situation of the DurhamGate development, which is better related to Spennymoor in terms of access by means of travel than car.

#### Scale and Design

134. As the application is in hybrid form, and is therefore partially outline, details of the proposed buildings are currently only known for those buildings within Phase 1, namely the Greggs and Costa Coffee outlets.
135. These buildings would be of a relatively standard contemporary retail unit design and would reflect those which can be found elsewhere in the vicinity of Thinford Roundabout. Policy Q7 of the CDLP seeks to ensure that new commercial developments reflect their surroundings, whilst Policies Q1 and Q2 seek to ensure that new development is designed with end users in mind, and it is considered that the proposed development, insofar as details are known at this stage, would be in

accordance with these policies. Further, the proposed parking arrangements would also appear to be in accordance with Policy Q3.

### Residential Amenity

136. Although much of the application is outline form, objections have been received with regards to the location of the proposed hotel, and further, the Environmental Health Officer has also raised some concerns with regards to the expected noise levels that would be generated by the development, particularly at night, when background traffic noise will be lower.
137. It is noted that the outline element of the application does allow for layout to be altered at the Reserved Matters stage. This affords the flexibility to adjust the final position of elements, including the hotel, and with further details of the proposed uses and buildings, that the possible noise that they might generate can be better assessed and mitigated. It is considered unlikely that the proposed uses would generate such noise so as to render their inclusion within the application as unacceptable, and it is proposed that should members be minded to approve the application, that further noise survey and mitigation work should be undertaken.
138. Equally, it is accepted that the proposed layout does indicate potentially substantial development in relatively close proximity to the residential property that sits to the north of the site. However, with layout, scale and design still to be finalised, it is considered that any impact upon this property can be properly assessed at a later stage.

### Ecology

139. The submitted ecological appraisal has identified that the site is of relatively low ecological value, with the potential to have only negligible impacts upon protected species.
140. The presence of protected species is a material consideration, in accordance with Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) and Paragraph 119 of the NPPF. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010 (as amended) (the Regulations). The Regulations established a regime for dealing with derogations, which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.
141. In this respect, the County Ecologist has considered the submitted ecological appraisal and agrees with its findings, that there would not be an impact upon protected species as a result of this development. Policy E16 of the CDLP seeks to protect nature conservation interests, and it is considered that this proposal would be in accordance with this policy, and further, that the Authority can discharge its requirements with regards to the Regulations.

### Drainage

142. The site lies within Flood Zone 1 and is therefore considered to be at a low risk of flooding.

143. The submitted drainage report identifies that there is existing surface water drainage on site at present, although it is not recorded on Northumbrian Water's plans and it is unclear where the outfall runs to. Whilst this should be ascertained prior to development commencing, it is considered that this could be secured by means of a planning condition, along with a suitable scheme of foul and surface water drainage, in accordance with Policy U8A of the CDLP.

#### Other Matters

144. The Council's Employability Team notes have indicated that the development would be likely to generate 141 FTE jobs, and request that if permission is granted, that occupiers of the approved units liaise with the Employability Team to target recruitment in accordance with local need. Whilst such an approach can only be encouraged, it is considered that it would be unreasonable and unnecessary to secure this by means of a planning condition.
145. With regards to the potential for on-site contamination, the Environmental Health and Consumer Protection Team acknowledge that site is not contaminated and require no further work in this respect.

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## **CONCLUSION**

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146. The proposed development represents the introduction of town centre uses, into an out of town, countryside location.
147. Although the level of proposed investment in the County is welcomed, it is nevertheless considered that the location of such businesses is inappropriate, and it has not been demonstrated that this development would not have an adverse impact upon local town centres, notably Ferryhill and Spennymoor, both of which are already under-performing. This is contrary to Policy S9B of the CDLP, as well as paragraph 27 of the NPPF.
148. Further, the location of the site directly opposite the DurhamGate development means that it would be likely to significantly delay or even prevent the completion of this major regeneration scheme, which already has planning permissions in place for the uses proposed.
149. Whilst it is accepted that purely in retail impact terms, DurhamGate is no more or less sequentially preferable than the application site, it is considered that the DurhamGate site represents a more sustainable location for the proposed uses, with the application site suffering from poor access from Spennymoor by any means of transport other than car. This is contrary to paragraph 24 of the NPPF which states that preference should be given to accessible sites that are well connected to the town centre.
150. Further, the encroachment of the application site into the countryside beyond the existing previously developed Thinford Inn site is considered to lead to unacceptable impacts upon the countryside, particularly at an important gateway to Spennymoor, which cannot be adequately mitigated, contrary to Policies EMP16 and E7 of the CDLP.
151. Additionally, the application does not provide adequate information to allow its impact upon potential archaeological remains to be fully considered, contrary to paragraph 135 of the NPPF.

152. It is acknowledged that the application would bring certain public benefits, primarily in the form of a reduction in rat-running, improving the appearance of the site by means of removing a derelict building, and the creation of around 141 FTE jobs. However, these benefits in themselves are not considered to outweigh the negatives of the proposal, as outlined in this report.
153. Whilst the application is considered to be acceptable in other respects, the reasons set out above means that the application cannot be supported.

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## **RECOMMENDATION**

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That the application be **REFUSED** for the following reasons:

1. The proposed development would constitute the location of town centre uses in an out of town location where there are sequentially preferable sites available, and where it has not been adequately demonstrated that the development would not have a significantly adverse impact upon the vitality and viability of existing town centres contrary to Policies S1A and S9B of the City of Durham Local Plan and paragraphs 24 – 27 of the National Planning Policy Framework.
2. The proposed development would constitute the location of employment uses in a countryside location with resultant adverse impacts upon the countryside that cannot be adequately mitigated contrary to Policies E7 and EMP16 of the City of Durham Local Plan.
3. Insufficient information has been submitted in order to adequately assess the impact that the proposed development would have upon potential archaeological remains contrary to paragraph 128 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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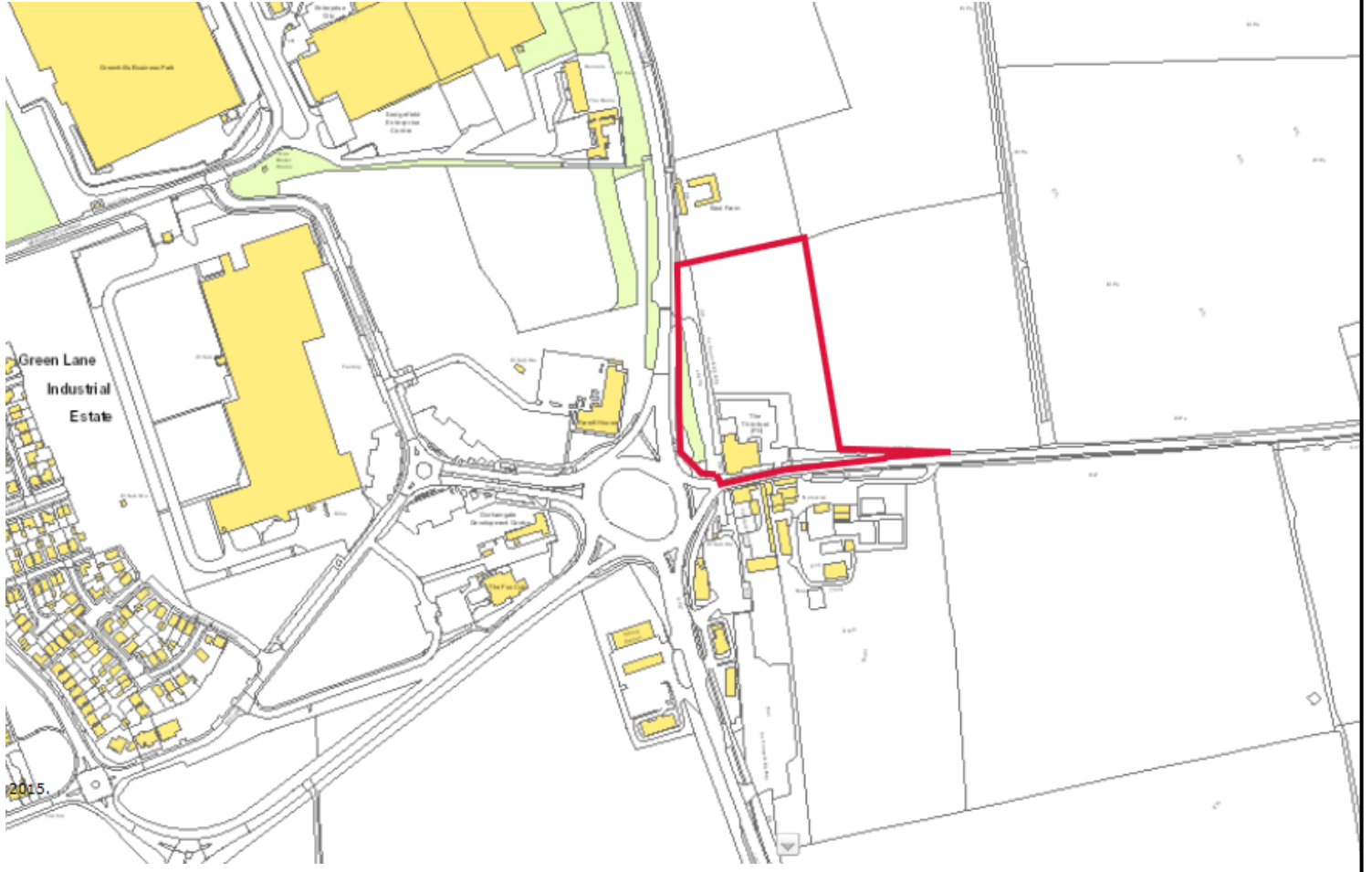
The Local Planning Authority in arriving at its recommendation to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant
- National Planning Policy Framework
- National Planning Policy Guidance
- The County Durham Plan (Submission Draft)
- City of Durham Local Plan
- Statutory, internal and public consultation responses



**Planning Services**

Demolition of existing public house (full permission) and outline planning permission for the erection of a pub/restaurant (Use Classes A3/A4), gym (Use Class D2), restaurant (Use Classes A3/A5) and hotel (Use Class C1), with all matters reserved except for access, and full planning permission for the erection of a drive-through coffee shop (Use Classes A3/A5) and retail bakery unit (Use Class A1), along with associated car parking, servicing and landscaping. (DM/15/01765/OUT)

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**Comments**

**Date** August 2015

**Scale** Not to scale