

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/02514/OUT
FULL APPLICATION DESCRIPTION:	Outline application, including access details, for retail food store, incorporating car park, landscaping and new vehicular access.
NAME OF APPLICANT:	Ogden Group of Companies
ADDRESS:	Land adjoining Bowburn South Industrial Estate, Durham Road, Bowburn
ELECTORAL DIVISION:	Durham South
CASE OFFICER:	Peter Herbert, Senior Planner, peter.herbert@durham.gov.uk 03000 261391

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application site lies close to the southern end of Bowburn South Industrial Estate, which in turn is positioned within the south western part of Bowburn village.
2. The site is bordered to the east by the north – south running A177, and by industrial estate roads to the south and west. To the north lies open land with tree coverage.
3. The application site is currently open scrub land, with a significant tree line along the eastern boundary, and further isolated trees growing along the southern and western boundaries. Woodland stands to the north. There are signs of informal footpath use crossing the site, but no public footpaths.
4. There are no designated landscapes, ecological sites or known designated heritage assets within the application site or in the vicinity. However, the site formed part of the former Bowburn Colliery and is believed to be close to the line of a former Roman road. A non-designated heritage asset.

Proposal

5. It is proposed that a food store of 4,184m² gross floor space be located on this site, and whilst the application is to establish the acceptability in principle of such development, with vehicular access details provided, an illustrative site plan accompanies the submission showing the store to be located at the southern end of the site, with car parking to the north.
6. The store would take the form of 4,184 m² gross floor space comprising 2,453m² net (60% of the gross floor area) split into 1,821m² net convenience goods floor space

and 632m² comparison goods floor space. The application seeks to re-establish a 2012 permission which lapsed in September 2015, and this latest application comprises exactly the same proposal on the same site with the same access arrangements.

7. The main vehicular access would be taken from the A177 via a traffic light controlled junction at the north east corner of the site, forming a crossroads with Bede Terrace to the east. This would serve a 313 space car park. A service yard within the south western corner of the site would be accessed from the estate road to the west. A recycling centre in the north western corner of the site would be accessed separately, again from the estate road to the west.
8. Existing trees would be retained where possible, and reinforced and enhanced as part of any subsequent detailed (or reserved matters) planning application.
9. The application is being reported to Central and East Committee as it constitutes a major retail application of less than 10,000 sq. m on a site of less than 2 ha.

PLANNING HISTORY

10. In 2008 outline planning permission (with all matters reserved other than vehicular access) was granted for 2,450m² gross retail floor space on this site.
11. In 2009 a variation of Condition 12 of the 2008 consent allowed no more than 1,500m² gross (1,000m² net floor space) for the sale of convenience goods.
12. A further variation of Condition 12 of the 2008 consent was allowed in 2011 for no more than 1,350m² net floor space for the sale of convenience goods. Later in 2011 the 2008 outline planning permission was extended for a further three years.
13. In 2012 outline planning permission was granted for a food store of 4,184m² gross floor space to be located on this site, with all matters reserved other than vehicular access.

PLANNING POLICY

NATIONAL POLICY

14. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
15. 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'. The following elements are considered relevant to this proposal.
16. *NPPF Part 1 – Building a strong, competitive economy* states a commitment to securing economic growth to create jobs and prosperity. Significant weight is therefore attached to supporting such growth through the planning system. When assessing applications for retail development a sequential approach should be applied, putting

town centre sites first. For schemes in excess of 2500 sq. m a retail impact assessment should be undertaken, gauging impact upon existing, committed and planned public and private investment in shopping centres within the proposal's catchment area, and any impact upon the vitality and viability of such shopping areas through trade diversion.

17. *NPPF Part 2 – Ensuring the vitality of town centres* recognises these as being the heart of their communities, and their vitality and viability to be important. When assessing applications for retail development a sequential approach should be applied, putting town centre sites first. For schemes in excess of 2500 sq. m a retail impact assessment should be undertaken, gauging impact upon existing, committed and planned public and private investment in shopping centres within the proposal's catchment area, and any impact upon the vitality and viability of such shopping areas through trade diversion.
18. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system should be balanced in favour of sustainable transport modes. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
19. *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.
20. *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.
21. *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 and associated infrastructure.
22. *Part 11 – 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, minimising impacts on biodiversity and providing net gains where possible. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated/unstable land.
23. *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.

24. 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 below.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf> (*National Planning Policy Framework*)

25. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters including: ensuring the vitality of town centres, flood risk and coastal change, and transport.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

City of Durham Local Plan 2004 (CDLP)

26. *Policy EMP 8d – General Industrial Estates* – designates the application site as part of Bowburn South Industrial Estate. However, it has a dual designation as also being suitable for retail development (Policy S6b).
27. *Policy E14 – Protection of Existing Trees and Hedgerows*. Views hedgerows and trees as a valuable resource to be *protected* when new development is being considered.
28. *Policy E16 – Nature Conservation – the Natural Environment*. Is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
29. *Policy E24 – Ancient Monuments and Archaeological Remains*. Ancient monuments and other nationally significant archaeological remains and their settings will be preserved in situ and damage would not be permitted. Archaeological remains of regional and local importance will be protected in situ and where preservation in situ is not justified by, ensuring that in areas where there is evidence that significant archaeological remains exist, or reasons to pre-suppose they exist, pre-application evaluation or archaeological assessment will be required and requiring as a condition of planning permission, that a programme of archaeological investigation, recording and publication has been made.
30. *Policy HI3 – Residential Areas- Impact upon Character and Amenity*. Seeks to protect the character and levels of residential amenity those living in such areas can reasonably expect to enjoy.
31. *Policy S1A – Retail Hierarchy*. Is designed to protect vitality and viability of the local retail hierarchy by employing a sequential approach based upon the “town centre first” principle.
32. *Policy S6b – Village Shops*. Identifies Bowburn as a village where a shop of less than 1,000m² will be permitted subject to it not adversely affecting the viability of any other

local centre or village, it not resulting in adverse retail impact or harm to amenity and it is situated close or well related to the existing shops or facilities in the village.

33. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
34. *Policy U11 – Development on Contaminated Land* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
35. *Policy U13 – Development on Unstable Land* only permits such development were it have been proven there is no risk to the development or users, or that satisfactory remedial measures can be undertaken.
36. *Policy Q15 - Art in Design* states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.
37. *Policy T1 – Traffic – General.* States that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
38. *Policy T10 – Parking.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

EMERGING POLICY:

The County Durham Plan

39. 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 and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, the CDP is no longer material.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494> (Durham City Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

40. *Cassop cum Quarrington Parish Council* – has no objection to the proposal.
41. *The Highways Agency* – offers no objection.
42. *The County Highway Authority* – offers no objection. Impact on the local highway network, and proposed vehicular access arrangements from the A177 via a traffic signal controlled junction, are considered to be acceptable. On-site car parking numbers are also agreed, subject to the addition of a minimum of four bays dedicated to electrical vehicle recharging.
43. *The Coal Authority* – offers no objection subject to the imposition of a condition or conditions. The Authority identifies the site as lying within a defined Development High Risk Area therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered. The Authority concurs with the recommendations of the submitted Geo -environmental Geotechnical Assessments and requests that the implementation of these measures form conditions of any planning permission.
44. *The Environment Agency* – offers no objections subject to standing advice relating to land contamination and disposal of foul sewage which has been sent to the applicant's agent.
45. *Northumbrian Water (NWL)* – offers no objection subject to it being a condition of any planning permission that a detailed scheme for the disposal of foul and surface water be agreed with both the local planning authority (LPA) and NWL prior to any development commencing, in line with the Hierarchy of Preference (soakaway, watercourse, then finally sewer).
46. *Drainage & Coastal Protection* – offers no objection considering that the site is of low flood risk. Sustainable drainage principles, adopting the Hierarchy of Preference within the Surface Water Management Plan and Building Regulations should be adhered to.
47. *Air Quality* – offers no objection. The site does not fall within a designated Air quality Management Area. However, mitigation measures would be expected where traffic generation or other potential sources of emissions exceed a certain level, and reference is made to national guidance.

INTERNAL CONSULTEE RESPONSES:

48. *Spatial Planning Policy* – has carefully assessed this application against national and local planning policies, paying particular attention to potential retail impact upon shopping centres lying within the primary retail catchment area of the proposed store. Taken also into account, with due weight given, are the significant benefits to Bowburn a new foodstore would bring. The conclusion is that the application is broadly in accordance with relevant planning policy, and that the benefits significantly outweigh any disbenefits.
49. *Design & Conservation* – offer no objection. The site's prominent location is recognised as requiring a key corner landmark building, the details of which to be provided at the reserved matters planning application stage through condition.. The effective screening of the service yard, visual breaking up of the car park and a desire to retain the best trees are also highlighted.
50. *Archaeology* – offers no objection. The recommendations of the submitted desk-based archaeological assessment of the application site, which include a strip, map and

record exercise as part of the ground works for any development, in recognition of the close proximity to a Roman road and to the former Bowburn Colliery, are accepted. Appropriate planning conditions that address archaeological impact mitigation and the recording of finds are requested.

51. *Landscape* – offers no objection. Landscaping is viewed as being a key component to the success of any future detailed scheme on this site. In that regard it is noted that the submitted Design and Access Statement recognises the value of existing trees and the necessity to mitigate for any tree losses.
52. *Ecology* – offers no objection. The conclusions and mitigation recommendations contained within the submitted Extended Phase 1 Habitat Survey, and Great Crested Newt and Dingy Skipper butterfly surveys are accepted. Accordingly, no objection is raised subject to the recommendations being implemented.
53. *Access & Rights of Way* – offers no objection. However, although there are no recorded public rights of way running through the application site, there is a strong possibility that a number of informal paths crossing it have acquired public rights. It is therefore recommended that, as far as possible, as many of these pedestrian links are retained as part of any new development.
54. *Environment, Health and Consumer Protection* – offers no objection. However, it is anticipated that noise, smoke, dust and light impact could result from this proposal during both its construction and operational stages. Accordingly, appropriate planning conditions are requested to address these issues should planning permission be granted, together with working hours restrictions during the construction phase.
55. *Environment, Health and Consumer Protection (Land Contamination)* – offers no objection. Whilst it is noted that the submitted Geoenvironmental and Geotechnical Assessment was produced in 2010 and so not up to date, it is accepted that circumstances are unlikely to have changed. Therefore, as was the case with previous planning permissions on this site, any consent should be subject to planning conditions relating to site investigation and remediation, in respect of contaminants, should there be any.
56. *Sustainability* – offers no objection. However, it should be a condition of any planning permission that any subsequent reserved matters planning application includes a detailed sustainability statement.
57. *Targeted Training and Recruitment* – states an aspirational target of 10% of any labour requirement to be offered as new employment opportunities or training. It is therefore requested that any planning permission be conditional upon collaboration with the Council's Employability Team to source suitable candidates.

PUBLIC RESPONSES:

58. The application has been advertised in the local newspaper, by the display of site notices and through individual letters to those living and operating businesses close by. No responses have been received as a result of this publicity.

APPLICANTS STATEMENT:

59. The application before you today seeks to renew the permission for a food store on land at Durham Road, Bowburn. There have been previous consents for retail

development on the application site all of which have been modified to respond to changes in the marketplace and the demands of retailers.

60. The previous permission was granted in 2012 at a time when the country was experiencing a significant economic downturn. Whilst the scheme was designed to meet retailer's requirements as well as the demand generated by the population of Bowburn, the interest expressed by end operators during this recessionary period was extremely limited.
61. Therefore, we have been unable to attract an end user over the past three years despite active marketing of the site and direct approaches to the key operators. However, more recently (whilst certain national operators are still experiencing difficult trading conditions) there are a number of operators who are now reviewing new opportunities to expand their market share and provide new facilities in areas where current provision is very limited such as Bowburn.
62. As a result, there is now a renewed interest generally within the food retail sector for new opportunities and we are more confident that an end operator for the proposed development will be secured in the short to medium term. As a result, we are now looking to extend the permission on the site for a further 3 years to allow a more aggressive marketing campaign to take place and an end operator to be found.
63. This will have significant benefits for the local community in Bowburn who currently have very limited shopping facilities locally and, as a result, are forced to travel significant distances to access facilities elsewhere. We recognised that in seeking to support more sustainable development planning policy encourages schemes that will reduce the need to travel as well as provide qualitative improvements to key facilities locally. This application before you will not only benefit existing residents but will also support new families who come to the village as it expands.
64. The application site represents a highly accessible location easily reached by a choice of modes of travel and will address a clear deficiency in Bowburn's current retail provision.
65. Furthermore, valuable jobs will be provided in the store which will also benefit the local community.
66. In determining the previous application, the Council concluded that the proposal fulfilled a longstanding aspiration for Bowburn providing an appropriately sized food store as part of this growing and vibrant village. Whilst three years have passed since that decision was made, there have been no significant changes in planning policy or local circumstances that would lead to a different conclusion being reached today.
67. Given the fact that this is an identical re-submission for which the applicant is increasingly confident will be implemented within the next 3 years, we urge the Council to re-confirm their support for the store and grant planning permission for this 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: <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

68. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, relevant Development Plan policies, guidance and all other material planning considerations, including representations received, it is concluded that the main planning issues raised by the proposal are: the principle of the development, retail impact, access and highway safety, ecology, heritage impact and other matters.

Principle of the Development

69. National planning policy contained within the NPPF states that significant weight should be placed on the need to support economic growth through the planning system. It is considered that this proposal meets such objectives in terms of building a strong competitive economy, by enabling business growth, providing employment opportunities and enhancing the vitality and viability of a village shopping centre that could provide a catalyst for further economic investment.
70. The site has a dual allocation in the CDLP for employment use (Policy EMP8) and for a village shop (Policy S6b). While the scale of the development exceeds the size of a typical village shop (1,000m²), the acceptability of retail development on this sustainably located site has already been established by earlier planning permissions, and no relevant material changes in planning policy, nor circumstances, have taken place in the interim.
71. Therefore, subject to it being demonstrated that the additional impact resulting from a larger development (over 1,000m²) can be satisfactorily accommodated, the proposal is considered to meet NPPF compliant CDLP Policy S6b, and Part 1 of the NPPF.

Retail Impact

72. CDLP Policy S1A seeks to protect and promote the vitality and viability of all shopping centres within the retail hierarchy of the City of Durham area. It also defines shopping centres within that hierarchy. The application site is not identified within the hierarchy, but the nearby village centre of Coxhoe is, as a Local Centre.
73. CDLP Policy S6 identifies villages, including Bowburn, where Class A1 retail land uses of less than 1,000m² would be supported, subject to the vitality and viability of any other local shopping centre or village not being adversely affected, there being no negative impact on the character or amenity of the surrounding area, and the site being well related to other shops and facilities within the village.
74. Within the justification of CDLP Policy S6 it is stated that Bowburn has experienced a recent growth in population but does not have an identifiable local centre. The CDLP therefore allocates a site suitable for retailing within Bowburn South Industrial Estate (CDLP Policy EMP8d). These policies align with the stated objectives of NPPF Part 1 that supports economic growth.
75. In assessing the proposed development against the above local plan policies, it is concluded that it is partially in compliance, but the amount of floorspace proposed (4,184m²) clearly exceeds the 1,000m² stipulated by CDLP Policy S6. However, it must be acknowledged that previous planning permissions have also exceeded 1,000m².
76. Paragraph 24 of the NPPF requires a sequential test to be applied for main town centre uses that are not in accordance with an up to date Local Plan. However, as the acceptability in principle of retail development in excess of 1,000m² has been

established on five previous occasions by earlier planning permissions, the most recent of which was for 4,184m², a full sequential test is not considered necessary.

77. Paragraph 26 of the NPPF requires an impact assessment if proposed retail floor area exceeds a locally set threshold. Without such a threshold in place a default threshold of 2,500m² is set. As this proposal exceeds that figure, impact on the nearby Coxhoe local centre must be considered. In this regard such impact has previously been judged not to be significantly adverse. Shops within Coxhoe are by nature used for “top up” shopping rather than a substantial weekly shop. As a consequence, trading patterns are unlikely to change as a result of this proposal. However, to ensure there is no harmful impact from comparison goods sales on shops selling similar goods within the Coxhoe village centre, restrictions on retail floor space and types of comparison goods sold would be enforced by planning condition.
78. The Planning and Retail Statement submitted in support of this application predicts impact on other shopping centres within the proposal’s Primary Catchment Area (PCA). This concludes that, taking full account of current and future expenditure within the PCA, the only impact on trading positions is likely to be on the Co-op store in Bowburn. This is accepted. However, such impact is considered to be outweighed by the positive effects that would result from the creation of an enhanced shopping choice for the village as a whole.
79. Therefore, on balance, the objectives of CDLP Policies S1A, S6 and EMP8d and therefore all can be afforded weight in the decision making process. The development is also considered compliant with Parts 1 and 2 of the NPPF and relevant guidance within the PPG in this regard

Access and Highway Safety

80. Vehicular access would be taken from the A177 via a proposed signal controlled junction .The submitted Traffic and Highway Statement (Morbaine 2015) concludes that no adverse highway safety or traffic flow implications would result from this proposal. Up to date survey information demonstrates that the impact would be less than originally assumed when the recently lapsed planning permission was granted. This is due to earlier predictions being based on data base figures up to 15 years old, some of which included food stores with petrol filling stations (PFS). As the Bowburn proposal does not include a foodstore, and trip generation projections are now based on far more recent data that reflect less use of the car due to market forces and the encouragement of use of alternative transport modes, less traffic generation than originally predicted is likely to occur. This conclusion is accepted by the Highway Authority.
81. The Statement maintains that the proposed traffic light controlled access would operate safely, with increased capacity resulting from the aforementioned reduced predicted trip numbers. This is agreed by the Local Highway Authority.
82. Although this is only an outline application, it has been demonstrated that appropriate levels of car and cycle parking can be accommodated within the site, and there is a willingness to accept a planning condition requiring electric vehicle charging points. A Travel Plan would accompany a later reserved matters planning submission.
83. The site is judged to be in a most sustainable location relative to those living in Bowburn , the nearest residential property being approximately 30m away Durham Road, with good connectivity by means of a range of travel modes. Therefore, overall,

this proposal does not raise any access or highway safety concerns, and so meets the objectives of CDLP Policies T1 and T10 in terms of highway impact and parking, and NPPF Part 4. While Policy T1 is recognised as being only partially consistent with the NPPF, as it applies a lower test of highway impact acceptability (significant rather than severe), no conflict arises as highway impact has been judged to be acceptable. Policy T10 is inconsistent with the NPPF by being over-prescriptive in terms of parking standards. However, having assessed the space made available at this early stage, as shown on the submitted indicative layout, against the County Highway Authority's adopted parking standards and the objectives of the NPPF Part 4, once again no policy conflict arises.

84. It is therefore considered that the objectives Part 4 of the NPPF have been met, having due regard to relevant advice within the NPPG. CDLP Policy T1 is considered to be partially compliant with the NPPF. being inconsistent with the NPPF by being over prescriptive in regard to parking numbers.

Ecology

85. CDLP Policy E16 seeks to protect and promote nature conservation assets within the City of Durham area. This policy aligns with the stated objectives of NPPF Part 11 that supports the conservation and enhancement of the natural environment.
86. Extended Phase 1 Habitat Survey, Great Crested Newt (GCN) and Dingy Skipper reports have been submitted in support of the application. It has been confirmed that the northern part of the application site is used by GCNs. This is an area of woodland containing a pond, into which the car park would extend. Proposed mitigation measures would comprise the creation of two new ponds to the north to compensate for the loss of the present breeding pond, the relocation of GCNs from the application site to the receptor ponds, and post development population monitoring and habitat management.
87. The site is currently mostly scrub, and a potential Dingy Skipper habitat. To compensate for its loss, land immediately to the north within the applicant's ownership would be enhanced to provide suitable alternative, and subjected to a low maintenance regime to ensure the site remains suitable to support the Dingy Skipper. This would be secured by planning condition requiring the recommendations contained with the submitted Dingy Skipper *Erynnis tages* Enhancement Statement to be carried out.
88. When determining planning applications where protected species have been identified, the local planning authority (LPA) must demonstrate that the decision has taken them fully into account, and that the LPA has discharged its duty to have regard to the Conservation of Habitats and Species Regulations 2010 (as amended 2012) which transpose the requirements of the European Habitats Directive into UK law, and any other relevant legislation such as the Wildlife and Countryside Act. Where there is likely to be a disturbance to protected species, case law has established that local planning authorities must consider whether the applicant might obtain a relevant licence from Natural England. This requires an examination of the derogation provisions which also form the basis of the licensing regime. However, the LPA must not override the functions of the licensing body in this regard. It is for Natural England to decide licensing applications; the LPA must only be satisfied that there is a possibility of a required licence being obtained.
89. Ecology officers consider that, despite the application having the potential to impact on Great Crested Newts, the impact of the development upon the protected species would be acceptable, subject to proposed mitigation measures being implemented. It

is considered that the development would comply with article 12(1) of the Habitats Directive, and that a license may be granted by Natural England if application be made. This judgement is based upon the development being for reasons of overriding public interest (an enhanced shopping offer in Bowburn which is an aspiration of the CDLP), submissions demonstrating there is adequate mitigation possible (the provision of two ponds that would provide alternative habitat), and no satisfactory alternatives being available.

90. Accordingly, the objectives of CDLP Policy E16 are considered to have been met, a Policy considered to be compliant with the NPPF and and therefore all can be afforded weight in the decision making process. The proposal also accords with Part 11 of the NPPF.

Heritage Impact

91. The submitted Archaeology and Cultural Desk Assessment recommends a strip, map and record exercise as part of the ground works for any development, in recognition of close proximity to a Roman road and is on the site of the former Bowburn Colliery, a non-statutory heritage asset. The postulated line of the Roman Road approximates to the present day A177 which bounds the eastern edge of the site. The former Bowburn Colliery occupied the current Bowburn South Industrial Estate. These recommendations are accepted as being appropriate by Archaeology officers, and can be secured by planning conditions that include the recording of finds. The objectives of CDLP Policy E24 are considered to have been met, a Policy considered to be compliant with the NPPF and and therefore all can be afforded weight in the decision making process. The proposal also accord with Part 12 of the NPPF.

Other matters

92. The submitted Arboricultural Impact Assessment and Method Statement recognise the importance of trees bordering the site, their protection, and the desirability of their incorporation within any later detailed scheme. The submitted indicative plan reflects this aspiration. However, other than vehicular access, all matters of detail are reserved. Therefore, this is a matter that can be addressed by planning condition. The objectives of CDLP Policy E14 are therefore considered to have been met, a Policy considered to be compliant with the NPPF and and therefore can be afforded weight in the decision making process. The proposal also accord with Part 11 of the NPPF.
93. The site is of low flood risk. (Flood Zone 1), and no objections have been raised by either the Environment Agency nor the Council's Drainage and Coastal Protection Officer have raised any objection. Foul and surface water drainage can be addressed by planning condition, having due regard to the Hierarchy of Preference that is soakaway, watercourse, and then sewer. The objectives of CDLP Policy E8A are therefore considered to have been met, a Policy considered to be compliant with the NPPF and and therefore all can be afforded weight in the decision making process. The proposal also accord with Part 10 of the NPPF.
94. The site has a coal field legacy therefore precautions are necessary prior to any development commencing to ensure ground stability and the removal of any contaminants. Submitted Geoenvironmental and Geotechnical Assessments, although produced in 2010, are still considered relevant as site conditions are unlikely to have changed in the interim. Prior to any development commencing, further site investigation, any necessary remediation, and final validation can be addressed by planning condition. The objectives of CDLP Policy U11 are therefore considered to have been met, a Policy considered to be compliant with the NPPF and and therefore

can be afforded weight in the decision making process. The proposal also accord with Part 11 of the NPPF.

95. To ensure the residential amenity levels of those living close to the site in Durham Road are not impacted upon to an unacceptable degree, the provision of, and adherence to, a site management scheme to cover the construction phase can be secured by condition.
96. In regard to air quality, impact can be mitigated through a Travel Plan that would encourage the use of alternative means of transport other than the private car. This can be secured by planning condition.
97. CDLP Policy Q15 requires artistic elements to be incorporated into the design and layout of developments. If such elements are not included in proposals it is normal to require a financial contribution in lieu of on-site provision. At this outline stage an artistic provision can be secured by planning condition. The objectives of CDLP Policy Q15 are considered to have been met, a Policy considered to be partially compliant with the NPPF and therefore can be afforded weight in the decision making process. The proposal also accord with Part 7 of the NPPF.
98. The Economic Development (Employability) Team note that the development could create new employment opportunities or training. Consequently, a condition is suggested in order to secure Targeted Recruitment and Training measures.

CONCLUSION

99. This proposal fulfils a long standing aspiration to provide Bowburn, a growing and vibrant village, with an appropriately sized foodstore. Potential impact upon neighbouring shopping centres such as Coxhoe has been taken carefully into account, but predicted modest trade diversion levels are considered to be conclusively outweighed by the economic and community benefits to Bowburn. This is a sustainable development proposal with the ability to create jobs and economic prosperity.
100. The acceptability of a foodstore in the location chosen, and its proposed size, has already been established by previous planning permissions, the most recent of which was in 2012. Circumstances have not significantly changed in the interim, and it is the applicant's intention to renew that outline permission with a view to attracting a store operator who would submit a reserved matters application with detailed proposals that reflect its individual requirements.
101. The environmental effects of the proposal have been considered and found acceptable subject to appropriate conditions. The proposed vehicular access is judged to be safe, and traffic generation predicted to be associated with the proposed development is considered to have no negative impact on the local road network. No residential amenity issues are raised despite the relative close proximity of residential properties, and ecological impacts can be effectively mitigated. Any potential heritage asset impact can be addressed through planning condition requiring pre-development investigation, as can any potential consequences of the site's coalfield legacy. No objections have been received in respect of this application.
102. The proposed development is therefore considered to accord with relevant policies of the CDLP (the development plan) and national planning guidance contained within the NPPF.

RECOMMENDATION

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

1. No development shall take place until approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") has been obtained from the Local Planning Authority. Application for approval of reserved matters shall be made to the Local Planning Authority before 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.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans, and recommendations contained within the following documents:

Plans:

SITE LOCATION PLAN DWG 6243/17

PROPOSED SITE PLAN DWG 6243/18 REV A

APPROVED ACCESS ARRANGEMENTS DWG 110802/02

ARBORICULTURAL IMPACT ASSESSMENT REVISION B
(ALL ABOUT TREES JULY 2015)

ARBORICULTURAL METHOD STATEMENT
(ALL ABOUT TREES JULY 2015)

ARCHAEOLOGY & CULTURAL HERITAGE DESK BASED ASSESSMENT
(WYG ENVIRONMENT JULY 2011)

DINGY SKIPPER ENHANCEMENT STATEMENT
(WYG ENVIRONMENT JUNE 2012)

EXTENDED PHASE 1 HABITAT SURVEY REPORT
(WYG ENVIRONMENT JULY 2015)

FLOOD RISK & DRAINAGE STATEMENT
(MET CONSULTING ENGINEERS 2010)

PHASE 1 GEOENVIRONMENTAL ASSESSMENT (DESK STUDY)
(MDJA 2010)

GREAT CRESTED NEWT REPORT
(WYG ENVIRONMENT 2012)

SITE INSPECTION REPORT – BAT ROOST POTENTIAL TREE INSPECTION
(WYG ENVIRONMENTAL 2011)

TRAFFIC & HIGHWAY STATEMENT
(TURNER LOWE ASSOCIATES 2015)

DESIGN & ACCESS STATEMENT (GWH)

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regard to Policies EMP8b, E14, E16, E24, S1A, Q7, Q15, T1, T20, U8A, of the City of Durham and having regard to Parts 1, 4, 7, 8, and 11 of the NPPF.

3. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water, having due regard to the Hierarchy of Preference contained within Part H of Building Regulations 2010. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent increased flood risk from any sources in accordance with Policy U8a of the City of Durham Local Plan and Part 10 of the NPPF. Required to be pre-commencement as the design and implementation of final surface water disposal for the site must be undertaken at an early stage.

4. No development shall commence until an Employment & Skills Plan is submitted to and approved in writing by the Local Planning Authority. Thereafter the development hereby approved shall be carried out in accordance with the approved Employment & Skills Plan.

Reason: In the interests of building a strong and competitive economy in accordance with Part 1 of the NPPF. This condition is pre-commencement as it concerns construction workforce employment.

5. Development shall not commence until:
 - a) A scheme of intrusive site investigations for mine entries and shallow coal workings has been submitted to and approved in writing by the local planning authority in conjunction with the Coal Authority.
 - b) The approved investigations shall be carried out and a report of findings submitted to the local planning authority including the results of any gas monitoring undertaken.
 - c) The submission of a layout plan identifying appropriate zones of influence for recorded mine entries on site, identification of any "no-build" zones, and a scheme of treatment of any recorded mine entries shall be submitted to and agreed in writing by the local planning authority in conjunction with the Coal Authority.
 - d) The approved remedial works shall be carried out in full.

Reason: In the interests of site stability in accordance with the objectives of Policy U13 of the City of Durham Local Plan. Required to be pre-commencement as such work must be undertaken at an early stage.

6. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document that has been submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:

- a) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- b) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
- c) Post-fieldwork methodologies for assessment and analyses.
- d) Report content and arrangements for dissemination, and publication proposals.
- e) Archive preparation and deposition with recognised repositories.
- f) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
- g) Monitoring arrangements, including the notification in writing to the County Durham.
- h) Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- i) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason: To meet the objectives of Policy E24 of the City of Durham Local Plan and Paragraph 141 of the NPPF as the site may affect features of archaeological significance. Required to be pre-commencement as such work must be carried out at an early stage.

7. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To meet the objectives of Policy E24 of the City of Durham Local Plan and paragraph 141 of the NPPF, which requires the developer to record and advance understanding of the significance of any heritage asset to be lost, and to make this information as widely accessible to the public as possible.

8. No development shall take place until a detailed acoustic report, carried out by a competent person, is submitted to demonstrate the impact of the potential development on nearby residential dwellings. The report must be conducted with due consideration of all relevant standards and, if found necessary, identify any noise mitigation measures necessary, including the selection any proposed plant/equipment, hours of deliveries, hours of store operation and mitigation measures such as barriers within the car parking area, and be agreed in writing by the local planning authority.

Reason: In the interests of residential amenity in accordance with the objectives of Policy H13 of the City of Durham Local Plan and Part 8 of the NPPF. Required to be pre-commencement as such work must be undertaken at an early stage.

9. 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 built development commencing.

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 and Part 8 of the NPPF. Required to be pre-commencement as such work must be undertaken at an early stage.

10. No development shall take place until a construction management strategy has been submitted to and approved in writing by the Local Planning Authority. Said management strategy shall include but not necessarily be restricted to the following;

- i) A Dust Action Plan containing; the methods of suppressing dust; the methods to record wind direction and speed and the meteorological conditions at the site; methods of monitoring dust emanating at and blowing from the site.
- ii) Details of methods and means of noise reduction
- iii) Confirmation that the burning of combustible material on site shall be prohibited unless it has been first demonstrated that the material cannot be disposed of in any other suitable manner.
- iv) Details of wheel washing facilities and means of reducing the potential for mud on the roads in the vicinity of the site.

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 development shall be undertaken in accordance with the agreed management strategy.

- v) Working hours.

Reason: In the interests of residential amenity in accordance with the objectives of Policy H13 of the CDLP and Part 8 of the NPPF. Required to be pre-commencement as construction activity mitigation must be agreed before works commence.

11. Not more than 632m² net shall be used for the sale of comparison goods. Comparison goods are defined as the following COICOP Categories: Clothing materials & garments, Shoes & other footwear, Materials for maintenance & repair of dwellings, Furniture & furnishings; carpets & other floor coverings, Household textiles, Major household appliances, whether electric or not, Small electric household appliances, Tools & miscellaneous accessories, Glassware, tableware & household utensils, Medical goods & other pharmaceutical products, Therapeutic appliances & equipment, Bicycles, Recording media, Games, toys & hobbies; sport & camping equipment; musical instruments, Gardens, plants & flowers, Pets & related products, Books & stationery, Audio-visual, photographic and information processing equipment, Appliances for personal care, jewelry, watches & clocks, Other personal effects.

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.

12. 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 and Part 8 of the NPPF. Required to be pre-commencement as such work must be undertaken at an early stage.

13. 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 and Part 4 of the NPPF.

14. 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 in accordance with the objectives of Policy T1 of the City Of Durham Local Plan and Part 4 of the NPPF.

15. 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. Required to be pre-commencement as such work must be undertaken at an early stage.

16. Prior to development commencing, details of car parking layout, to include four electric vehicle charging bays, 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 and Part 4 of the NPPF.

17. An up to date Ecological Assessment of the site, together with any appropriate protected species mitigation measures, shall be submitted with any Reserved Matters or Full Planning Application submissions to the Local Planning Authority.

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 and Part 11 of the NPPF

18. No development shall take place until a scheme to minimise energy consumption has been submitted and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in accordance with the approved scheme and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance with the objectives of Policy U14 of the City of Durham Local Plan having regard to Part 10 of the NPPF. Required to be pre-commencement as the energy reduction scheme should seek to involve a fabric first approach designed and potentially implemented at an early stage.

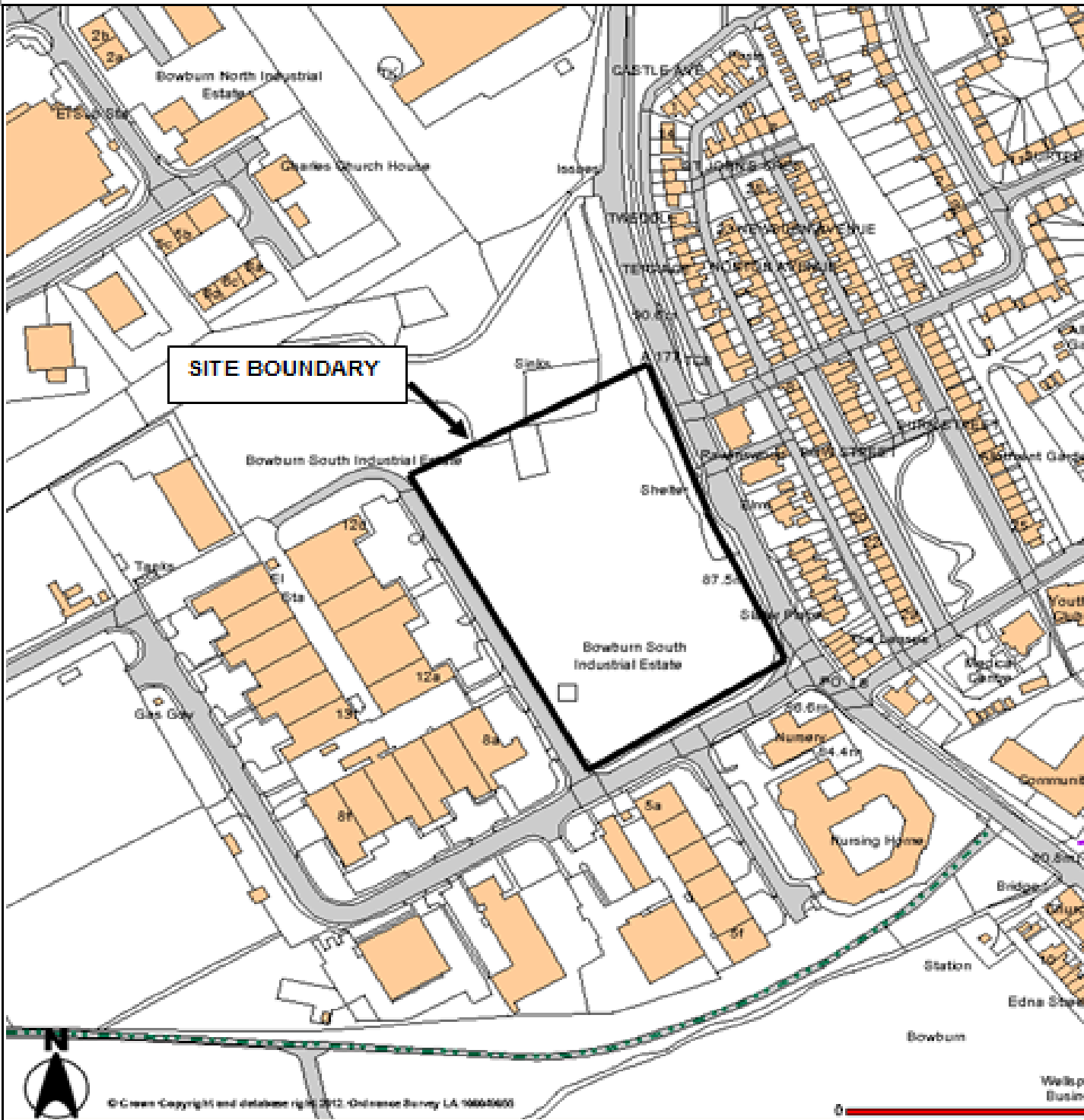
STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve 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) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

3

BACKGROUND PAPERS

- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework
- National Planning Practice Guidance
- City of Durham Local Plan
- Statutory, internal and public consultation responses



Planning Services

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DM/15/02514/OUT
 Outline application, including access details, for retail store, incorporating car park, landscaping and new vehicular access at Land adjoining Bowburn South Industrial Estate, Durham Road, Bowburn

Comments

Date October 2015

NTS