



COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/18/00298/FPA
FULL APPLICATION DESCRIPTION:	Demolition of Existing Buildings and Construction of Discount Foodstore (Class A1), Non Food Retail Unit (Class A1) with External Garden Centre, Provision of Associated Access, Customer Car Parking, Landscaping and Associated Works.
NAME OF APPLICANT:	Dragon Lane LLP
ADDRESS:	Damson House, Dragon Lane, Gilesgate, Durham
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Graham Blakey, Senior Planning Officer, 03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application site measures 1.97ha in area and bounded by Rennys Lane to the north, Damson Way to the south, Dragonville Industrial Estate to the east and Dragon Land to the west. The land is occupied by large former industrial buildings and warehouses, some of which have fallen in to disrepair and other are being occupied by low level businesses or other commercial development (i.e. furniture shop).
2. Terrace housing (Teasdale Terrace) and a public house, front on to Dragon Lane and Rennys Lane adjoin the site, with detached housing adjoining the site to Rennys Lane. Beyond Dragon Lane to the west lies the Dragonville Retail Park and Tesco superstore. Vehicular access is currently taken from Rennys Lane, Dragon Lane and Damson Way to the various buildings on the site, with a signalised junction at Damson Way / Dragon Lane / Tesco.
3. There are no statutory or locally designated heritage assets, landscapes or ecological sites that would be affected by the proposals. No recorded public rights of way are contained within or adjacent to the application site, but National Cycle Network Route 14 runs up Dragon Lane and along Rennys Lane adjoining the site.

Proposal

4. Planning permission is sought for the erection of a retail food store that would provide 2,125sq m gross of internal floor space ("Unit A") and a non-food retail store that would provide 4,923 sq m gross with 465 external garden area, "Unit B" a total of 7,513 sq m gross. The larger unit would be located to the northern part of the site to the rear of Teasdale Terrace and Rennys Lane, with the food retail unit located to the eastern part of the site between Damson Way and MKM Building Supplies (Rennys Lane). 272 car parking spaces are proposed and would be located between the stores and Dragon Lane / Damson Way, with landscaping proposed to the western and southern boundaries.

5. Buildings would, in terms of elevation, appear rectangular in shape with shallow pitched roofs. Walls would comprise horizontal colour coated flat composite panels above facing brick, with composite sheet panel roof incorporating roof lights. The buildings vary in terms of detail to reflect the proposed end users. Unit A, the discount food retail store would be occupied by Lidl and the store focuses its main entrance to the south west corner of the building overlooking the car park and main vehicular entrance to the site, and glazed elevation to Damson Way. Unit B, proposed to be occupied by The Range, features a central main access with glazing to the front (southern elevation) of the store, with feature cladding to either side of the entrance and south east corner.
6. The proposed development would take access from Damson Way opposite and existing access to the 'Mono Containers' site to the south, allowing further routes via Dragon Lane and Damson Way to the A181, Sherburn Road. Vehicle loading and servicing areas are split for the two units, Unit A being access separately from Damson Way at the extreme east boundary, with Unit B access from Rennys Lane between the residential properties of 4 and 5 Rennys Lane. This is a historic access to the former warehouse use at the site. Pedestrian access is proposed from the entrance to Unit A the short distance to Damson Way, as well as across the central area of the car park from Unit A to Dragon Lane and from the south east corner of Unit B to direct to Dragon Lane.
7. In order to facilitate the development, demolition of numbers 14-19 Teasdale Terrace is proposed (all currently rented to their respective tenants by the land owner partner to the whole development site). This would allow for the creation of 10 residential car parking spaces for the remainder of the terrace which would be access direct from Dragon Lane and would be separate from the main car park. No through access would be proposed to the rear of Teasdale Terrace up to Rennys Lane.
8. This application is being reported to the Central and East Planning Committee as it is classed as a major development.

PLANNING HISTORY

RELEVANT PLANNING HISTORY

9. In 2003 outline planning permission was granted Class A1 non-food retailing by the Secretary of State following a public inquiry as a result of a Government 'call-in' (4/01/00146/OUT). The permission is subject to conditions controlling the level of Class A1 retail floorspace (6039 sq m gross), limited the range of goods that can be sold to those a "bulky" nature, and restricting the minimum size of individual retail units (not less than 750 sq m gross).
10. In 2007 planning permission was granted for the remaining reserved matters relative to the outline planning permission (4/06/01158/RM).
11. In 2010 conditions associated with outline and reserved matters planning permissions were discharged and development was formally commenced.
12. In 2013 planning permission was granted to vary the condition restricting minimum unit size, reducing the minimum unit size from 750 sq m (gross) to 400 sq m (gross).

PLANNING POLICY

NATIONAL POLICY

13. 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. 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’.
14. 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. The following elements of the NPPF are considered relevant to this proposal;
15. *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 a low carbon future.
16. *Part 2 - Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
17. *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 needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
18. *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.
19. *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.
20. *Part 10 – Climate Change.* 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. This is central to the economic, social and environmental dimensions of sustainable development.

21. *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, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; 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 and unstable land, where appropriate.
22. *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.
23. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: ensuring the vitality of town centres; retail development and highways impacts; determining a planning application; flood risk; health and well-being; natural environment; noise; planning obligations; travel plans, transport assessments and statements and use of planning conditions.

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

24. *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.
25. *Policy S1A – Retail Hierarchy* – seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
26. *Policy S8 – Retail Warehousing Outlets* – states that new retail warehouse development will be permitted on designated sites, providing, amongst other things, that there is demonstrable need, a sequential test has been carried out, and the vitality and viability of existing centres would not be adversely affected.
27. *Policy S9B – Major Out of Centre Proposals* – states that where there is an identified need for large-scale retail and leisure development that cannot be met through existing allocations, preference should be for sites within the city centre, followed by edge of city centre locations, district centres locations, local shopping centre locations and only when the development cannot be accommodated in these locations, then elsewhere within the built up area of Durham City provided certain criteria are met.

28. *Policy EMP8.a – General Industrial Sites* – designates general industrial sites, and identifies the site of Dragonville Industrial Estate as being suitable for B1, B2 and B8 development.
29. *Policy H13 – 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.
30. *Policy Q1 – General Principles Designing for People*. Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
31. *Policy Q2 – General Principles Designing for Accessibility*. The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
32. *Policy Q3 – External Parking Areas*. Requires that external parking areas provided as part of a new development should be landscaped, adequately surfaced, demarcated, lit and signed. Large surface car parks should be sub-divided into small units. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
33. *Policy Q4 - Pedestrian Areas*. Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
34. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
35. *Policy Q15 – Art in Design*. Seeks to encourage the provision of artistic elements in the design and layout of development.
36. *Policy T1 – Transport – General* – states that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.
37. *Policy T10 — General Provision*. States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
38. *Policy T19 – Cycle Routes* – encourages the provision of facilities for parking cycles in the city centre and other locations which are secure, protected from the weather and clearly signed.
39. *Policy T20 - Cycle Facilities*. Seeks to encourage appropriately located, secure parking provision for cyclists
40. *Policy CC1 – Vitality and Viability* – states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses, and sustaining the city centre shopping centre in accordance with other retail policies.

41. *Policy U5 – Pollution Prevention.* States that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land.
42. *Policy U8a – Disposal of Foul and Surface Water* – requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. 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.
43. *Policy U10 – Natural Flood Plains.* Proposals shall not be permitted in flood risk areas or where development may increase the risk of flooding elsewhere unless it can be demonstrated by way of sequential test that there is no alternative option available at lower risk, there will be no unacceptable risk of flooding, there will be no unacceptable increase in risk of flooding elsewhere and appropriate mitigation measures can be put in place to minimise the risk of flooding which can be controlled by planning condition.
44. *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.

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/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (City of Durham Local Plan)

RELEVANT EMERGING POLICY:

45. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

46. Belmont Parish Council have also made representation upon the application. They do not object to the principle of the application, acknowledging the regeneration benefits of the proposals, however they raise the following points in regard to the impacts of the development.

Highways

- Traffic generation during construction and the retail operation of the units are a concern, as access roads to the site are already extremely busy.

- Access to the A1 should be strictly controlled at all times to avoid use of inappropriate and unsuitable roads.
- Use of, and access via, A181 (Sherburn Road) / Damson Way junction would see future traffic increase and have effects upon Booths Bungalows and Coronation Terrace.
- HGV use of Dragon Lane / Damson Way is a major concern and their effective traffic management is a prime issue, including emissions.

Parking and fencing

- Increased on-street parking in front of Teasdale Terrace by future customers of these stores and Tesco.
- Concerns over how ‘residents parking’ to south of Teasdale Terrace would be controlled for their sole use. Similar option provided for Providence Row to north on Dragon Lane.
- Concur with Police Architectural Liaison Officer comments to supplement knee rail fencing with defensive planting to preserve desire lines.
- Position of cycle store to Dragon Lane exit should also be revisited.

Others

- Concerns over the impact of proposed uses upon nearby residents of Teasdale Terrace and Renny’s Lane. Conditions regarding hours of working and noise levels of refrigeration and air conditioning plant should be imposed and enforced.
- A need to include a Dust Action Management Plan is paramount to mediate against nuisance dust and air quality pollutants.

47. *Highway Authority* – Raises concerns over the impact upon the surrounding highways network. They advise that the submitted Transport Assessment methodology is considered acceptable, however the wider impacts upon the highway network beyond Dragon Lane have not been fully addressed. Junctions at Dragon Lane/ Sunderland Road; Dragon Lane A181; Damson Way A181; Durham City Retail Park roundabout and the Sunderland Road / Broomside Lane would experience impacts which would likely saturate the network without any mitigation. This is in addition to the Dragon Lane / Tesco junction which modelling demonstrates could not accommodate this development without mitigation.
48. The Highways Authority have identified a scheme for road and junction improvements at Rennys Lane to Damson Way / A181 (Sherburn Road) – ‘Retail Park Link Road’. This would be designed to relieve pressure on Dragon Lane and its junctions north and south. Funding for the scheme is being identified and a contribution from the Kerry Foods development to the north of Rennys Lane has been secured through planning obligation. Therefore a contribution towards the provision of the Retail Park Link Road would be required in order to mitigate the impacts of the proposed development from a highways perspective.
49. *Drainage and Coastal Protection* – Raises an objection. The proposed development would be required to meet a greenfield run-off rate of 9 litres per second in accordance with the ‘QBAR Rural run-off rate’. The proposed development only achieves a run-off rate of 51.9 litres per second and is open to further opportunity to incorporate Prevention, Source Control and Site Control measures in accordance with Councils SuDs Adoption Guide 2016.

50. *Northumbrian Water* – Raise no objection subject to the development being carried out in accordance with the submitted Flood Risk Assessment and a condition restricting flow rates via the proposed sewer connections.

INTERNAL CONSULTEE RESPONSES:

51. *Spatial Policy* – the requirements of the sequential assessment have been met by the applicant. The site is an out of centre site and whilst other in centre and edge of centre sites exist there are logical reasons as to why they can be discounted. The applicants have also provided an impact assessment of the proposed store which concludes that the proposal would not have a significant adverse impact on the vitality and viability of nearby centres and also on any investment. The conclusions of this assessment are again accepted. It is also worth noting the significant regeneration benefits that this proposal can bring in terms of investment and job creation.
52. *Design and Conservation* – Raise no objection. Overall the scheme is of a contemporary appearance for a development of this nature and improves the site over the current situation. Landscaping proposed to frontage of site should be improved to provide a better frontage to the site.
53. *Environment, Health & Consumer Protection (Air Quality)* – Advise that the proposed development would lead to increase traffic flows through the Air Quality Management Area (AQMA) to the Dragon Lane / Sunderland Road junction without the provision of the Retail Park Relief Road at the operational phase. The provision of the relief road would accommodate traffic from the proposed development as well as affecting baseline traffic flows currently through the AQMA. At the construction phase, the development would see HGV vehicle movements to and from the site, which would not be considered to result in an impact upon air quality. Suitable measures to control dust emissions from the site should be included within an overall construction management strategy.
54. *Environment, Health & Consumer Protection (Land Contamination)* – Advise that due to the fact that this development constitutes a change of use to a more sensitive receptor and due to the fact that the land was previously a bus depot, a contaminated land condition should apply. The submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations.
55. *Environment, Health & Consumer Protection (Noise Action Team)* – Raise no objections advising the submitted noise impact assessment is considered sound. The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. Officers are satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance. Impacts from external plant and machinery during the operational phase of the development should be controlled, together with the amount, location and intensity of external lighting.
56. *Landscape* – Raise no objections. Landscaping to the Dragon Lane / Damson Way roadside frontages have been improved to sufficiently.
57. *Ecology* – No ecology issues are raised. It is noted that the habitats on site are relatively low quality and the urban nature of the site (surrounded by development) and the mitigations proposed within the Preliminary Ecological Appraisal should be conditioned for delivery.

58. *Sustainable Travel* – Raise no objections. National Cycle Network (NCN) Route 14 runs north on Dragon Land from A181 to Rennys Lane turning east towards Belmont. The route should be protected and upgraded where possible.
59. *Access & Rights of Way* – Officer note that there are no registered public rights of way within or abutting the development site. Furthermore the proposed development appears to offer little scope for improvements to the wider public rights of way network. Officers fully concur with comments submitted by the Sustainable Travel Officer concerning improvements to Renny's Lane, which is a locally important traffic free route with direct links to residential areas in Belmont and Sherburn.
60. *Travel Planning* – Raise no objections in principle, however officers advise that the submitted travel plan requires refinement.
61. *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:

62. The application has been advertised by means of individual notification letters, site notice and press notice. 8 objections have been received and their comments are summarised below.

Principle

- Existing sites have not been developed yet in the area (Kerrys Food Site, Mono Containers site) and highlight the lack of need.
- Area of this site is designated as Dragonville Industrial Estate and not a retail park as is becoming the case. This removes the opportunity for small to medium manufacturing businesses to occupy these sites.
- Demolition of 6 dwellings to Teasdale Terrace to create car parking does not represent sustainable development and is unnecessary.

Highways

- Volume of traffic along Damson Way towards A181 (Coronation Terrace / Booth's Buildings). Damson Way used as a 'rat run' to avoid traffic lights at A181 / Dragon Lane junction and includes several HGVs. The junction at Coronation Terrace / Booths Buildings is inadequate for the current situation and would be made worse by the development.
- Ownership issue over part of Damson Way on the A181, previous investigations by Faerch Plast had highlighted this as an issue in the past. Therefore not adopted highway.
- Increase in traffic along Damson Way would have a significant adverse impact upon the residents of the Damson Way / A181 junction area. Rat running would be come much worse from an already high baseline that is problematic.

Others

- New stores will lead to increased theft and drinking disorder in the area that is already at high levels.
- Too much competition for local, smaller retail outlets which would suffer as a result of this development. Staff will lose jobs.

63. City of Durham Trust object to the assertion that a “discount foodstore” would have a “healthy” effect upon the city centre. The loss of six houses is queried and the future of the remaining dwellings.
64. Indigo, a planning consultant on behalf of the land owners of the Mono Containers site to the south of the application site have made the following comments in objection to the application.
- The Retail Impact Assessment submitted to support this application has underestimated the floorspace consented on the former Mono Containers site and its turnover.
 - Access to the site solely from Damson Way would lead to highway impacts upon the Dragon Lane / Damson Way signalised junction. Highway consultants have proposed an alternative scheme involving amendments to the Damson Way access point and a secondary access from Dragon Lane to mitigate the significant increase in traffic from the proposed development. Without mitigation the proposals would result in conflict with Paragraph 32 of the NPPF and CDLP Policy T1.
65. *Police Architectural Officer* – Raises some concerns over the security fencing to the rear of both proposed stores, suggesting more robust fencing options.

APPLICANTS STATEMENT:

66. The proposal will regenerate an unattractive, run down brownfield site in east Durham located on the edge of the Sherburn Road District Centre and allocated for retail warehousing. Provision of around 110 total new employment opportunities and enhanced convenience and comparison shopping in a location accessible by a choice of transport mode, opposite the district centre thus facilitating linked trips, would lead an overall benefit in shopping provision for east Durham.
67. The proposal would support an established retail destination in the eastern part of the City and one recognised in the development plan as performing the function of a district centre. We consider the proposal would support the wider district centre function.
68. It has been demonstrated by this application the proposed development accords with national and local planning policy and would deliver wider planning and sustainability benefits for residents in the area. We consider the proposal would deliver sustainable development and would provide an economic, social and environmental role which accords with principles of sustainable development as set out in the NPPF. Having taken account of all relevant material considerations, we consider the proposal does not result in material conflict with relevant planning policy for the area, including the NPPF. The proposal will deliver sustainable development.
69. We consider the proposed development accords with the Development Plan and there are no material considerations which would otherwise lead to a conclusion that planning permission should be granted.

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/applicationDetails.do?activeTab=documents&keyVal=OHRWNKGDKCV00>

PLANNING CONSIDERATIONS AND ASSESSMENT

70. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, design and impact upon the surrounding area, access and highway safety issues, residential amenity, flooding and drainage and other issues.

Principle of Development

71. The application site benefits from an extant planning permission for 6,039 sq m of non-food A1 retailing, which has been implemented on site. This represents a fall-back position for the application site when considering this proposal.
72. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
73. CDLP Policy S1(A) defines a retail hierarchy of centres within the Durham City area, placing Durham City Centre first, District Centres (including Dragon Lane / Sherburn Road) second and Local Centres third. The approach to defining a retail hierarchy is consistent with the guidance within the NPPF which states a need to define a network and hierarchy of centres that is resilient to anticipated future economic changes (Paragraph 23), the Policy is therefore up to date in this respect and can be given full weight in the planning process. CDLP Policy CC1 identifies that the city centre of Durham be protected or enhanced to ensure its vitality and viability through promoting mixed uses. Policy CC1 states that the “sequential approach” to site selection should be followed in respects to major retail and leisure development. The NPPF similarly requires the sequential approach to be adopted. Development out with the city centre should be subject to the ‘sequential approach’ of major retail development being 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. Policy CC1 is considered largely consistent with the content of the NPPF, though not fully consistent as Policy CC1 explains that the sequential approach will be applied to retail and leisure developments whilst the NPPF requires a broader application. Both the CDLP and NPPF (at paragraph 24) require a sequential test to be undertaken in regards to the development and this is discussed below.
74. The application site is allocated under CDLP Policy EMP8 (a) as the site forms part of the wider Dragonville Industrial estate. This policy is permissive of business (B1), general industrial (B2) and warehousing (B8) uses. The development does not propose a B use development type. However, part of the Dragonville industrial estate allocation which overwashes the site is specifically allocated under Policy S8 and this is discussed below.

75. The application site is allocated under CDLP Policy S8 as part of the Dragonville Industrial Estate where new retail warehouse development selling certain comparison goods can be considered acceptable subject to a number of criteria including that there is an identified need for the retail warehouse floorspace and that utilising the sequential approach the development cannot be located in a more sequentially preferable location. Again consideration to the sequential approach is given below. The Unit B proposed to be occupied by The Range would sell forms of bulky good comparison items which the policy considers is acceptable subject to criteria being met. Though there remains some potential for some of the items to be sold to conflict with the guidance under Policy S8. The proposed Unit B food store would conflict with Policy S8, which excludes food, drink and other goods which would be sold in a food store, from being permissible under a retail warehouse in full accordance with the policy. Therefore the development is in some conflict with the content of Policy S8.
76. CDLP Policy S8 is not fully up to date. The policy was based upon an identified need for retail warehouse development contained within evidence which informed the CDLP prior to its adoption. More up to date evidence based work (2013 Retail and Town Centre Study) no longer identifies such a need. As a result the weight to be attributed to the policy is considered to be reduced. In addition the NPPF does not expressly require that a planning application is accompanied by a demonstration of need.
77. CDLP Policy S9B relates to major out of centre retail development proposals such as that proposed and requires, where there is an identified need for large scale retail (and leisure as applicable) which cannot be met through existing allocations, that a sequential approach to site selection should be adhered. Policy S9B requires that the impact of the development, including cumulative impacts with other developments should not adversely affect the vitality and viability of any existing centres and be acceptable in regards to a range of other material planning considerations relating to highways and locational sustainability.
78. CDLP Policy S9B is considered partially consistent with the NPPF. Policy S9B requires an identified need to be established which is not reflected in the NPPF. Consideration as to the proposals compliance with the sequential approach to site selection, the impact of the development on the vitality and viability of existing centres and the highways/sustainability requirement of the policy are considered elsewhere in the report.
79. The NPPF which post-dates the CDLP is considered to provide the more up to date advice in respects to the sequential and impact tests and guidance on the assessment of retail development of the type proposed.

Sequential test

80. The application site is located within 300m and adjacent to the defined Sherburn Road/Dragonville District Centre and approximately 2.8km from the defined primary frontage in Durham City Centre. The applicant has submitted a sequential test, considering the potential of sites for the proposed discount foodstore (named as Lidl) and bulky goods store (named as The Range) in Durham City Centre and Sherburn Road/Dragonville District Centre.
81. The test concludes that there are no available sites within the Sherburn Road/Dragonville District Centre. These conclusions are considered acceptable as the centre is fully developed out with no existing development plots. The applicant acknowledges that sites exist to the north (former Kerry Foods site) and south (former Mono Containers site) of the application site. It is agreed that both of these sites are not sequentially preferable to the application site.

82. The test also concludes that there are no site opportunities within the City Centre. The applicant has referenced sites at Claypath, The Gates shopping centre and North Road stating the reasons why these sites are not available or suitable to accommodate the proposed development. Again the applicant's conclusions are considered acceptable, none of these sites is considered suitable, or in the case of The Gates available, for the proposed development.
83. Given the above, the findings of the sequential test are considered acceptable and there are no alternative sites for the proposed development in the city centre or district centre locations that would be sequentially preferable.

Impact test

84. As a result of the creation of 7,048 sq m of floor space, the proposal requires an impact test to determine whether the proposal will have a detrimental impact upon the city centre or other retail centres in the vicinity. The applicant has considered the impact that the proposal would have of any plans for public or private investment in Durham City Centre or the Arnison and Sherburn Road/Dragon Lane District Centres, revising their assessment in lieu of representations made by representatives of the Mono Containers site to the south of the application site in regard to amounts of retail floor space to their site. They have concluded that the proposal would not give rise to any significant adverse impact on planned public or private investment within these centres. These findings are considered acceptable.
85. In terms of impact of the proposal on town centre vitality and viability, each of the centres are stated to be healthy and viable and these findings are considered acceptable. Further information has been provided in regard to the changes to the centres since the Council's Retail and Town Centre Study was published in 2013. The greatest food retail impact would likely be to existing (food retail) stores at Tesco and Aldi to the opposite side of Dragon Lane as a result of the convenience store proposed to the application site. It is concluded that these stores would see the highest levels of trade diversion to the proposed store. This is not disputed given the proximity of these stores to the proposed site. However the applicant has stated that due to the trading performance of the centre and these two retailers in particular, this would not give rise to any impact concerns, a view shared by officers.
86. Furthermore, the impact test concludes that the impact on other stores outside the Sherburn Road/Dragonville District Centre would be most felt by the Lidl store at the Arnison Centre. Limited convenience trade diversion is anticipated from Durham City Centre by the applicant. It is agreed that existing convenience food provision in the City Centre is top up in nature and it will continue to fulfil this role despite development of the proposed Lidl store. It is also agreed that the impact on local centres in the city would be limited. Belmont and Gilesgate local centres are located within closest proximity and will continue to perform a top up function and will be largely unaffected by the introduction of a new retailer adjacent to the district centre.
87. With regards to the impact of the proposed 'The Range' store or the comparison (non-food) impact, the nature of this retailer is the goods are more 'bulky' in nature. Given the type of retailing within Durham City Centre the impact on the centre is likely to be minimal. The impact test concludes that trade diversion would be focused on similar units such as those found within the neighbouring district centre, but also Durham Retail Park, the commitment on the Mono Containers site to the south and also the Arnison Centre. These conclusions are considered acceptable and the proposals would not have a significant adverse impact upon district centres.

88. Therefore in considering the above, the impact that the scheme (both units) would have on defined centres is not considered to be significantly adverse. These conclusions are based upon the specific retailers and their general retail offer, and so Spatial Policy officers suggest that should the scheme be approved, conditions restricting the nature of retailing to that which has been applied for should be considered. In order to maintain control over the potential future impacts upon the city and district centres it is considered appropriate to follow this guidance and historic permissions on the site which have also taken this approach. Minimum unit sizes were also restricted by the enacted planning consent, and repetition of this approach would also be considered appropriate to maintain control over the impacts upon the other centres.

Sustainability of the development

89. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant. In relation to the economic and social roles it is recognised that there are regeneration benefits associated with the proposal. This includes the physical regeneration benefits of development of a previously developed site. The site has good access to public transport with regular bus service to the city centre and the wider area within walking distance of the site. Further to this the job creation benefits should be afforded some weight. The development would therefore contribute to the economic and social dimensions of sustainable development. However full consideration needs to be given to the potential environmental effects of the development and these are assessed below.

Conclusion on Principle

90. The wider impacts of the proposals have been assessed through retail impact and sequential tests which have concluded that the development could be accommodated without impact upon the viability and vitality of the city centre and other retail areas in the city, and that alternative sites cannot be found. The site is considered sustainably located with access to public transport and links to the city centre and beyond. Regeneration brought by the scheme would bring economic and social benefits from the proposals, as would the re-use of a previously developed site. CDLP Policy S8 is considered to be a policy which is out of date and as such, the assessment of the application would be required under Paragraph 14 of the NPPF to ascertain if the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, or whether specific policies within the NPPF indicate that the development should be restricted. The sustainability of the site weighs in favour of the development and the assessment of other areas below will be accounted for within the planning balance.

Design and Impact upon the Surrounding Area

91. Comprised of four separate buildings, the application site encompasses a selection of former industrial buildings and operational businesses together with the houses proposed for demolition. Damson House, to the eastern portion of the site is a large former industrial building that is currently internally subdivided into smaller units with a handful of small business operating from within. The former warehouse to the northern part of the site is derelict, with smaller buildings to the western portion of the site containing a furniture shop and hand carwash facility, all utilising the existing buildings. Redevelopment of these aging and derelict buildings would improve the appearance of the immediate area in a positive manner.

92. The proposed retail units represent current contemporary designs in regard to large, standalone retail development. The buildings proposed reflect the scale and massing of the original buildings on the site, so not fundamentally alter the quantum of built form in the area. Visually, the proposals represent similar development to that which has been built across the area and would be in keeping with the likes of the Durham City Retail Park to the north, Tesco across Dragon Lane, parts of Dragonville Retail Park and the recently constructed Kwik Fit centre which forms part of the former Kerry Foods site to the north of Rennys Lane. CDLP Policies Q1, Q2, Q3, Q4 and Q5 together require safe, inclusive, accessible and good quality, well landscaped developments. These policies are considered to be consistent with the NPPF.
93. Set back of the proposed buildings to the north and east of the application site and the positioning of the car park to the corner of Dragon Lane and Damson Way lead to the provision of an attractive environment which echoes the setback portrayed by the Tesco development opposite. The Council's Design Officer has noted the landscaping proposals to the western and southern boundaries and their role in providing a softened streetscene to the proposals. Landscape officers also note the landscaping proposals, however raised initial concerns over the quantity and quality of the proposed scheme. Following revisions to the scheme has been improved with additional planting to the agreement of Landscape officers.
94. Overall, the proposed development represents an example of modern, standalone retail development that would be visually in keeping with the surrounding area and other retail development. The redevelopment of the application site would significantly improve the visual appearance of the area, and so is considered to be in accordance with CDLP Policies Q1, Q2, Q3, Q4 and Q5, and Part 7 of the NPPF.

Access and highway safety issues

95. CDLP Policy T1 requires development to not adversely impact upon highway safety or amenity of adjoining occupiers, and is considered partially consistent with the NPPF. Paragraph 32 of the NPPF requires applications which proposed significant amounts of traffic movements should be supported by a Transport Assessment (TA) and should only be refused where the residential cumulative impacts of development are severe. Concerns over local highway capacity of the road network to accommodate additional flows and the resultant impact on highway safety have been raised by some local residents.
96. Dragon Lane and surrounding roads north (Sunderland Road) and south (A181, Sherburn Road) have been highlighted by the Highways Authority as already operating above their designed capacities through volume of traffic and is acknowledged, in part, by the modelling undertaken within the TA. The Highways Authority confirm that the proposals would not be able to be accommodated by the existing highway network. As part of their comments upon the application, the Highways Authority note that the authority are in the process of funding and designing a 'Retail Park Relief Road' which would operate to the east of the application site and take in part of Damson Way from the junction of Sherburn Road and the linking to Rennys Lane and McIntyre Way adjacent to the Durham City Retail Park.
97. The Highway Authority confirm that the planned relief road would be required to mitigate the impacts of this proposed development and in so doing would ensure that the proposals would not lead to a sever cumulative impact upon the surrounding highways network, as required by Paragraph 32 of the NPPF. The Highways Authority therefore request a formal contribution from the developer towards the provision of the relief road which can be secured through planning obligation. The developer has confirmed their acceptance of this approach.

98. The scheme proposes 272 car parking spaces, sufficient to accommodate the proposed development under the Council's Retail Car Parking Standards. Vehicular access is proposed from Damson Way opposite the previously constructed access to the Mono Containers site. Representations have been made to this application on behalf of the land owner of the Mono Containers site. They have been raised concerns over the proposed access point and the lack of an access in to the site from Dragon Lane.
99. Following revision of the immediate internal road layout of the proposed site, the access is considered to align better with the opposing junction and is to the agreement with the Highway Authority. The secondary access off Dragon Lane has also been considered by the Highways Authority, and they consider that the benefits of this access, which would lead to less need for traffic to turn left southbound off Dragon Lane on to Damson Way in order to access the site, would not be outweighed by the disadvantages. Traffic heading northbound on Dragon Lane would need to cross two lanes of traffic to access the site, with any yellow box markings designed to keep this access point clear of southbound traffic resulting in the benefit of the access being lost. Reduction of two southbound lanes to a single lane would lead to more queuing back up Dragon Lane and reduced capacity at the signals. All this notwithstanding waiting northbound traffic likely causing queues back to the Tesco traffic lights. Proximity to the residents only parking area access is also of a concern. On this basis the Highways Authority consider the proposal by the representatives of Mono Containers to be unsuitable.
100. Service access to both units is separate, one from Damson Way for Unit A and the other from Rennys Lane for Unit B. Both are established industrial access points for the previous uses at the site, and their proposed re-use and modifications are again accepted by the Highway Authority.
101. As part of the proposals, residential off-street parking for residents of Teasdale Terrace is proposed in place of several of the dwelling houses to the southern part of the terrace (numbers 14-19). Their removal would open up views of Unit B as well as provide an off-street parking to the remainder of the terrace. Off-street parking in this manner was used in the past when as part of the Tesco store development, a parking area for dwellings of Providence Place, residential dwellings in close proximity to the Dragon Lane / Sunderland Road junction. Inclusion of a scheme for off-street parking to the residents of Teasdale Terrace is considered acceptable in principle. The layout and access of the parking area is considered acceptable in lieu of the expected traffic flows.
102. CDLP Policy T20 requires new development to accommodate cycle parking facilities to promote this sustainable mode of transport, and is consistent with the aims of the NPPF. Cycle parking is proposed throughout the site, and the level of parking is commensurate to the proposed uses. The Highway Authority is concerned about the lack of detail in regard to the form which the cycle parking will take and so requests details of the cycle parking by way of condition. National Cycle Network (NCN) Route 14 runs adjacent to the application site (to which CDLP Policy T19 relates) and suitable access from the network to both of the retail units are proposed. The junction of Dragon Lane and Rennys Lane has been highlighted by our sustainable travel team as an issue to the cycle route and the creation of off-street parking for Teasdale Terrace is seen as a positive and allow permeability for cyclists between Rennys Lane and the western side of Dragon Lane.

103. Travel Planning officers have reviewed the submitted Framework Travel Plan, which is largely considered to be sound but requires further amendments. It is considered that this matter can be dealt with by condition, along with securing the implementation of a travel plan coordinator to secure sustainable travel objectives. Sustainable methods of transport to the site are also encouraged within the submission with provision for both cycle parking and electric vehicle charging point proposed, and it is considered appropriate that these aspects be covered by condition to ensure their delivery in accordance with Part 4 of the NPPF and CDLP Policies T1 and T19.
104. Overall, based on the advice of the Highway Authority, the proposed retail development would lead to an impact upon an already saturated network that without appropriate mitigation would lead to an impact upon the highway network. As a result, the Retail Park Relief Road is considered necessary to mitigate the impacts of the development and a financial contribution towards the cost of providing this mitigation would be secured. The internal layout is considered acceptable, with revised access arrangements deemed appropriate. Subject to conditions relating to agreeing engineering details of the proposed highway improvements to the site boundary and details of cycle parking and electric vehicle charging points and an updated travel plan, the proposal is considered acceptable in highways terms and complies with CDLP Policies T1, T19 and T20 and Part 4 of the NPPF.
105. Though an applicable Policy, T10 is considered inconsistent with the content of the NPPF as the NPPF is considered to permit a more flexible approach to parking standards and furthermore the parking standards which have informed Policy T10 are out of date. As a result the Policy is attributed very limited weight in the decision making process.

Residential Amenity

106. CDLP Policy H13 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. This Policy is considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. CDLP Policy U5 states that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land. This policy is considered partially consistent with the content of the NPPF and can be attributed weight in the decision making process. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Part 11 of the NPPF seeks to avoid noise from giving rise to significant new impacts. One representation received outlined concerns over increased theft and drinking disorder in the area as a result of the proposed retail stores.
107. The closest residential properties are to Teasdale Terrace and Rennys Lane which border the site to the west and north and wrap around the side and rear of Unit B. A range of impacts from the proposal are possible upon the residential occupiers of these buildings. Primarily, the general impacts associated with the store operation such as vehicle movements of customers, operation of machinery and plant and deliveries. The proposed store opening hours are unknown at this time, but corporately the likely end users operate within standard hours which are comparable to similar uses in the vicinity, including the neighbouring supermarkets and other retail uses. Noise generated from the movement of cars would be within acceptable levels during the majority of the day, as it would be assimilated into the high overall background noise level of this busy retail location. There is potential for some disturbance later at night as a result of any later opening times (10pm Monday – Saturday); however this would not be considered to cause a significant adverse effect in accordance with CDLP Policy H13.

108. The design of the proposed retail stores would see delivery bays and plant compounds located to the rear of both units – east of Unit A, north of Unit B. Industrial uses to the east of the application site would result in little impact from the equipment located to the rear of Unit A; however the presence of residential properties to the rear of Unit B along Rennys Lane would raise a potential conflict. The rear of Unit B would feature the delivery bay for the unit, an outdoor garden centre area, staff parking and external plant compound.
109. The Noise Impact Assessment (NIA) has been reviewed by the Council's Environmental Health and Consumer Protection officers and they are satisfied that the proposal would not result in a statutory nuisance. Unit A is proposed to operate with 24/7 deliveries, and as a result of the building orientation and delivery bay position (rear, east, of building with delivery bay facing south) would not be considered to cause an undue impact operating at those levels. Unit B, operating as a non-food retail A1 use, is proposed to operate only daytime deliveries (i.e. 0700 to 2300 hours). The Environment, Health and Consumer Protection officer has confirmed that this operating the store with deliveries in this fashion would be within the thresholds contained within the Technical Advice Notes (TANs). Impacts upon residential amenity would not be unacceptably adverse/harmful in accordance with CDLP Policies H13 and U5.
110. Fixed external plant is expected to both units, with plans indicating compounds for equipment such as air handling units and refrigeration plant. No exact details of the proposed type, location and number of plant equipment are known. As a result, the NIA proposes noise limits to which any installed plant would be allowed to operate to once installed. These would be no more than +5 dBA above background noise level between 0700 and 2300, and +0 dBA between 2300 and 0700. Based upon the background noise survey undertaken appropriate noise levels for daytime, early evening, and night time have been set following the above guidance, and Environmental Health officers consider this is appropriate to be controlled under condition so as to establish maximum noise levels for future plant installation across the development. Officers are satisfied that the subject to the setting of maximum noise levels for future external plant and machinery and deliveries to Unit B, the residential amenity of nearby properties would safeguarded sufficiently by these proposals.
111. External lighting is proposed to the site, yet no detail has been provided with the application. As the site is in close proximity to residential properties, it is considered appropriate to agree details of a proposed lighting scheme by way of condition to ensure that lighting levels and spillage are suitably contained.
112. The construction phase of any new major development can be one which lasts several months or years and can, as a result lead to impacts of their own upon the surrounding area. Primary impacts include noise, dust, vibration and light and can cause significant impacts upon nearby residents if not controlled. The proximity of neighbouring residential properties would make some form of control appropriate to safeguard amenity. A condition requiring a Construction Management Plan detailing measures to minimise the impact of construction activities on the neighbouring properties would therefore be appropriate in order to safeguard amenity during the construction phase of the development.

113. The proposed layout of the development would see the demolition of 14-19 Teasdale Terrace to the western boundary of the application site. The creation of a residents-only car parking area has been provided in their place to allow increased visual permeability to this area of the site as well as mitigate some highway impact from the development. The initial site plan for the development proposed a pedestrian footpath link from the front of Unit B which would then run past the side of the new gable of 13 Teasdale Terrace. This has been amended to run straight through the parking area and so remove this potential source of nuisance to the residential property, highlighting an improvement to the proposals. The Police Architectural Liaison Officer has raised concerns over the proposed 2.4 metre high close boarded timber fence to the rear of Teasdale Terrace in terms of security for the site. However, the aesthetic properties of this fence type in close proximity to the rears of the residential properties is equally important and so the benefit of the surveillance afforded by the residential properties overlooking the site in this case, would allow the close-boarded fencing to be appropriate in this instance.
114. One representation to the application has highlighted the increase in the retail offering the area would lead to increased theft and drinking disorder in the area. Any new retail development would attract these in some form, depending upon the retail offer, even to low levels and is one of the downsides to retail development in general. This, however, would be considered very minor in the overall balance of this case.
115. Overall, whilst it is reasonable that there would be a minor reduction in the level of amenity experienced by the occupiers of surrounding residential properties due to the proximity of the development, most of the noise impacts would be assimilated into the background noise climate in the operational phase. No objections were received from nearby residents or other premises with regard to amenity concerns and no objections are raised by Environment, Health and Consumer Protection officers subject to the imposition of planning conditions where necessary. The development is therefore considered to comply with CDLP Policies H13 and U5 and Parts 8 and 11 of the NPPF in this respect.

Flooding and Drainage

116. Part 10 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 11 of the NPPF takes account of the impact of any development upon the natural environment. Paragraph 103 of the NPPF specifically requires development to ensure flood risk is not increased elsewhere. CDLP Policy U10 seeks to prevent increases in flood risk occurring due to development whilst Policy U8a requires satisfactory drainage provisions within development. Both policies have consistency with the NPPF.
117. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low fluvial flood risk probability. A mains sewer connection is proposed for both foul and surface water connections.
118. In order to reduce flood risk as a result of the proposed development, the application proposes a drainage strategy to deal with surface and foul water drainage from the site. The strategy outlines that ground conditions are unsuitable for a scheme of soakaway and that there is not a known watercourse within a suitable distance (670m being the nearest) of the site for surface water disposal. Therefore the strategy proposes to discharge surface water run-off from the site into the public sewer network.

119. The site is brownfield and contains existing hardstanding and buildings. The strategy calculates a current surface water run-off rate of 260 litres per second into the public sewer network. The application proposes a drainage scheme that incorporates an underground storage tank. This would be capable of attenuating surface water to a run off rate of 51.9 litres per second. The proposed scheme, discharging at this rate would accommodate 1 in 100 year flood event plus a 40% increase for climate change. Drainage and Coastal Protection officers state that the site should be commensurate to equivalent 'greenfield' run-off rates for sites of this size (1.97 Ha) at 9 litres per second.
120. The applicant has reviewed the scheme in light of the requirements put forward by Drainage and Coastal Protection officers but consider that they are unable in their scheme to reduce discharge rates from their proposals below the 51.9 litres per second proposed. The applicant contends that the site levels, which fall from north to south, would make utilisation of standard SUDs techniques impracticable due to construction reasons. The site also benefits from an extant and implemented planning permission for a retail scheme of similar scale at the site which has previously established a drainage strategy with no betterment in surface water run off rate.
121. Paragraph 103 of the NPPF requires new development to not increase flood risk elsewhere. Ultimately a condition can be utilised to seek to agree final drainage disposal for the site. Within this officers can seek the most effective yet practicable solution. The site in its current form has no surface water run-off retention in any of the separate discharges in to the public sewer network. The proposed attenuation of surface water run-off within these proposals, while not reducing the surface water run-off rate to that which corresponds to a 'greenfield' run-off rate nevertheless would represent an improvement over the existing situation. Therefore it is the view of officers that the planning application should not be refused when considering that the proposed development would not increase the risk of flooding from the present situation at the site without the development. Northumbrian Water offer no objections subject to the implementation of the proposed drainage scheme and restriction in run-off rate. Foul water discharge would be considered domestic in nature and would be discharged in to the existing network to the acceptance of Northumbrian Water.

Other Issues

122. In relation to land contamination the applicant has submitted a phase 1 desk study report which identifies that there is a low risk of contaminants being present on site, but site investigation work is recommended. After reviewing the submitted report the Council's Environment, Health and Consumer Protection officers (Contaminated Land) advises that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations in line with CDLP Policy U11 (consistent with the NPPF) and Part 11 of the NPPF.
123. Paragraph 109 of the NPPF advises that new and existing development should avoid contributing to unacceptable levels of pollution, including air pollution. The proposed development would lead to an increase in traffic movements in the vicinity of the application site and subsequently through the Air Quality Management Area (AQMA) to north at the junction with Dragon Lane and Sunderland Road. However, in highway safety terms the proposed development would not be acceptable without mitigation of increased traffic movements as a result of the proposed use. This mitigation would take the form of a proposed Retail Park Relief Road to the east of the application site and the AQMA. The relief road, as discussed earlier in this report, would link McIntyre Way adjacent to the Durham City Retail Park with Damson Way resulting in junction improvements where this meets Sherburn Road. This second north-south route would be considered to relieve vehicle movements upon Dragon Lane from both this development and the existing traffic levels. The Council's Environment, Health and Consumer Protection officer acknowledges the principle of the relief road and its wider impact upon existing traffic levels through the AQMA.

124. A retail travel plan, that would encourage the use of alternative means of transport other than the private car, has been submitted with the application and amendments are required and previously recommended to be secured by planning condition.
125. The application sites offer little by way of ecological habitat. The scale and nature of the development and its urban location would be unlikely to bring about any meaningful biodiversity gains, however the Preliminary Ecological Appraisal highlights some low level mitigation measures and therefore the Ecology Team have raised no objections subject to the implementation of these mitigation measures.
126. 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.

Planning Obligations

127. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 sets out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contribution towards highway network improvements is considered to be in accordance with these tests.

Planning Balance

128. In summary, CDLP Policy S8 is considered out of date for the purposes of determining this application and so the acceptability of the proposals should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits.

Benefits

129. The development would bring forward a previously developed site in a run down and in places derelict condition that is in close proximity to services and public transport links. Regeneration of the site would bring job opportunities benefiting the local economy.
130. A betterment in surface water run-off discharge from the site over the current site conditions and the extant planning consent would reduce flood risk. Albeit this benefit is reduced somewhat by the proposals not being able to hit the 'greenfield' run-off rate for a site of this size.
131. Mitigation of the highway impacts of the proposed development through the provision of the Retail Park Relief Road would also contribute towards easing the wider highway and air quality issues in the Dragon Lane / Sunderland Road area.

Adverse Impacts

132. A shift from the previous industrial type development that once occupied the site would result in some adverse economic impact upon the local area through the loss of an industrial employment opportunity.

CONCLUSION

133. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant.
134. The scheme would protect the vitality and viability of existing centres in the city centre and nearby district centres. The scheme would also provide for job creation at both the construction phase and once operational. The development would therefore contribute significantly to the economic and social dimensions of sustainable development.
135. In relation to the environmental effects, the re-development of the site would address the overall untidy condition and improve the visual appearance of the application site, enhancing the character and appearance of the area through use of contemporary design and materials, together with a layout respectful to the proposed end use and surrounding constraints.
136. The proposal would be served by an appropriate means of access but would have an unacceptable impact on the wider highway network without mitigation. A financial contribution towards the provision of a 'Retail Park Relief Road' between Rennys Land and the A181 via Damson Way would be necessary to mitigate the impacts of the proposed development.
137. The presence of a noise climate with a high background level would result in limited, if any impact upon the nearest residential properties subject planning conditions. Again negligible impacts are likely from allowing unrestricted delivery times to the food retail store (Unit A). The scheme is considered to not increase the risk of flooding elsewhere.
138. The proposal has generated some public interest. Concerns were expressed by a small number of residents in regard to some aspects of the development, albeit offering support in principle to the application, and were carefully balanced against the scheme's wider social, economic and environmental benefits.
139. In the planning balance the scheme is considered to represent sustainable development with no specific policies within the NPPF indicating that the development should be restricted whilst any adverse impacts arising from the development would not significantly and demonstrably outweigh the benefits.

RECOMMENDATION

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

- A maximum of £175,000 towards the provision of a 'Retail Park Relief Road' in the vicinity of the site.

and subject to the following conditions:

Time Full

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

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

Plans

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

Date Received	Plan Ref	Description
31.01.2018	13458-098 Rev A	Site Location Plan
18.04.2018	13458-170 Rev F	Proposed Site Layout
18.04.2018	13458-177 Rev C	Proposed Boundary Treatment Plan
27.04.2018	V13458-L02 Rev E	Landscape Plan
31.01.2018	13458-173	Proposed Elevations 1
31.01.2018	13458-174	Proposed Elevations 2
31.01.2018	13458-171	Proposed GA Plans
31.01.2018	13458-172	Proposed Roof Plans
31.01.2018	13458-176	Proposed Site Sections

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies S1A, S8, EMP8.a, H13, Q1, Q2, Q3, Q4, Q5, T1, T19, CC1, U8a and U11 of the City of Durham Local Plan and Parts 1, 2, 4, 7, 8, 10, 11 and 12 of the National Planning Policy Framework.

Planning use related

3. The Class A1 retail floor space hereby permitted shall not exceed 7,513 square metres gross, of which 5,388 square metres gross shall be as a single non-food retail store ("Unit B") and 2,125 square metres gross shall be as a single food retail store ("Unit A").

The non-food retail floor space hereby approved in Unit B shall be used for the sale of DIY goods, home improvement goods, electrical goods, general building merchandise, furniture and furnishings, beds, floor coverings, motor accessories, office equipment, pet products, gardens centre products, homewares, bicycles, toys and ancillary items thereto and shall not be used for any other purpose including those set out in Class A1 of Schedule of the Town and Country Planning (Use Classes) Order 1987 or any other Order revoking, amending or re-enacting that Order with or without modification.

Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of Durham City Centre, and other nearby District and Local Centres in accordance with City of Durham Local Plan Policies S1A, S8 and CC1, and part 2 of the National Planning Policy Framework.

4. The development shall not be subdivided or subsequently altered to create units of less than 400 square metres gross floor space, and no further internal floorspace shall be created.

Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of Durham City Centre, and other nearby District and Local Centres in accordance with City of Durham Local Plan Policies S1A, S8 and CC1, and part 2 of the National Planning Policy Framework.

Pre-commencement

Construction Methodology

5. Prior to the commencement of any part of the development or any works of demolition, hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - a. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 - b. Details of methods and means of noise reduction/suppression.
 - c. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 - d. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;
 - e. Designation, layout and design of construction access and egress points;
 - f. Details for the provision of directional signage (on and off site);
 - g. Details of routes for HGV vehicles routes to and from the site;
 - h. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
 - i. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 - j. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
 - k. Routing agreements for construction traffic.
 - l. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - m. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
 - n. Detail of measures for liaison with the local community and procedures to deal with any complaints received.
 - o. The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

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

Reason: In order to protect the amenity of neighbouring residents from commencement of the development in accordance with Policies H13 and T1 of the City of Durham Local Plan and Parts 4, 8 and 11 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

Contaminated Land

6. Prior to the commencement of any part of the development hereby permitted a scheme to deal with contamination shall be submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections (a), (b), (c) or (d) are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

- (a) Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

- (c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.
- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and for the Local Planning Authority to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems details are required in advance of work commencing on site in accordance with NPPF Part 11. This is required as a pre commencement condition in order to mitigate potential impact upon the sensitive end use of the site which needs to be considered before site works commence.

Targeted Recruitment and Training

7. 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.

Foul and Surface water drainage

8. No development shall commence until a scheme for the provision of surface and foul water drainage works shall be submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the details agreed.

Reason: To prevent pollution of the water environment in accordance with Policy U8a of the City of Durham Local Plan and Part 10 of the National Planning Policy Framework. This is required as a pre commencement condition to ensure that the proposed development provides adequate levels of drainage which needs to be considered before site works commence.

Time Limited

Site Levels

9. Prior to the construction of the buildings hereby approved, plans and/or sections setting out proposed site levels and finished floor levels shall be submitted to and agreed in writing by the local authority.

Reasons: In the interests of visual amenity in accordance with Policies H13 and Q1 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

Highway Engineering Details

10. Within three months of the commencement of the development, full engineering details including a timetable of implementation of the proposed vehicular access on to the highway network shall be submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be implemented in accordance with the details and timings.

Reason: In the interests of highway safety in accordance with Policy T1 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

Landscaping Implementation

11. Prior to either of the buildings hereby approved first being brought in to use or in the first planting season following completion of the development, whichever is later, the landscaping scheme hereby approved (plan ref: V13458-L02 Rev E) shall be fully implemented. The scheme shall be subject to the following requirements: -

- No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.
- Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.
- Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.
- Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q5 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

Landscape Maintenance

12. Prior to either of the buildings hereby approved first being brought in to use, a scheme for the ongoing maintenance of the areas of landscaping within the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, the following requirements:

-
- Detailed dimension cross section indicating any urban irrigation system to aid with successful establishment and life expectancy.
- No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.
- Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of trees and hedges.
- Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q5 of the City of Durham Local Plan and Parts 7 and 11 of the National Planning Policy Framework.

External Lighting details

13. Prior to each of the buildings hereby approved first being brought in to use, a lighting strategy for each building shall be submitted to and approved in writing. The approved lighting strategy shall thereafter be incorporated into the development.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the National Planning Policy Framework.

Cycle parking detail

14. Prior to the occupation of any of the approved buildings, full details of the proposed cycle parking shall be submitted to and approved in writing by the local planning authority. Thereafter implementation shall be in accordance with the approved details within three months of the occupation of the each building.

Reason: In the interests providing sustainable transport choice, in accordance with Policy T19 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

Travel Plan

15. Within a period of six months of the first occupation of any part of the development of the relevant phase, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented thereafter in accordance with the approved timescales.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy T1 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

Other conditions

Working hours

16. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

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

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

External plant noise levels

17. At the nearest residential dwellings the cumulative noise rating levels associated with the fixed plant and machinery should not exceed 53dBLeq during the daytime (0700-1900 hours), 46dBLeq during the evening (1900 – 2300 hours) and 35dBLeq during the night time (2300-0700hours).

Reason: In order to protect the amenity of neighbouring residents from commencement of the development in accordance with Policies H13 and T1 of the City of Durham Local Plan and Parts 4, 8 and 11 of the National Planning Policy Framework.

Ecological mitigation

18. The development shall be carried out in accordance with the mitigation outlined within the “Ecological Appraisal, Land off Dragon Lane, Durham, Report reference: R-2169-02.2, January 2018”.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the National Planning Policy Framework.

Provision of electric parking bays in perpetuity

19. Notwithstanding the details submitted with the application, a minimum of 2no. electric vehicle charging parking facilities shall be provided on the site and remain in working order.

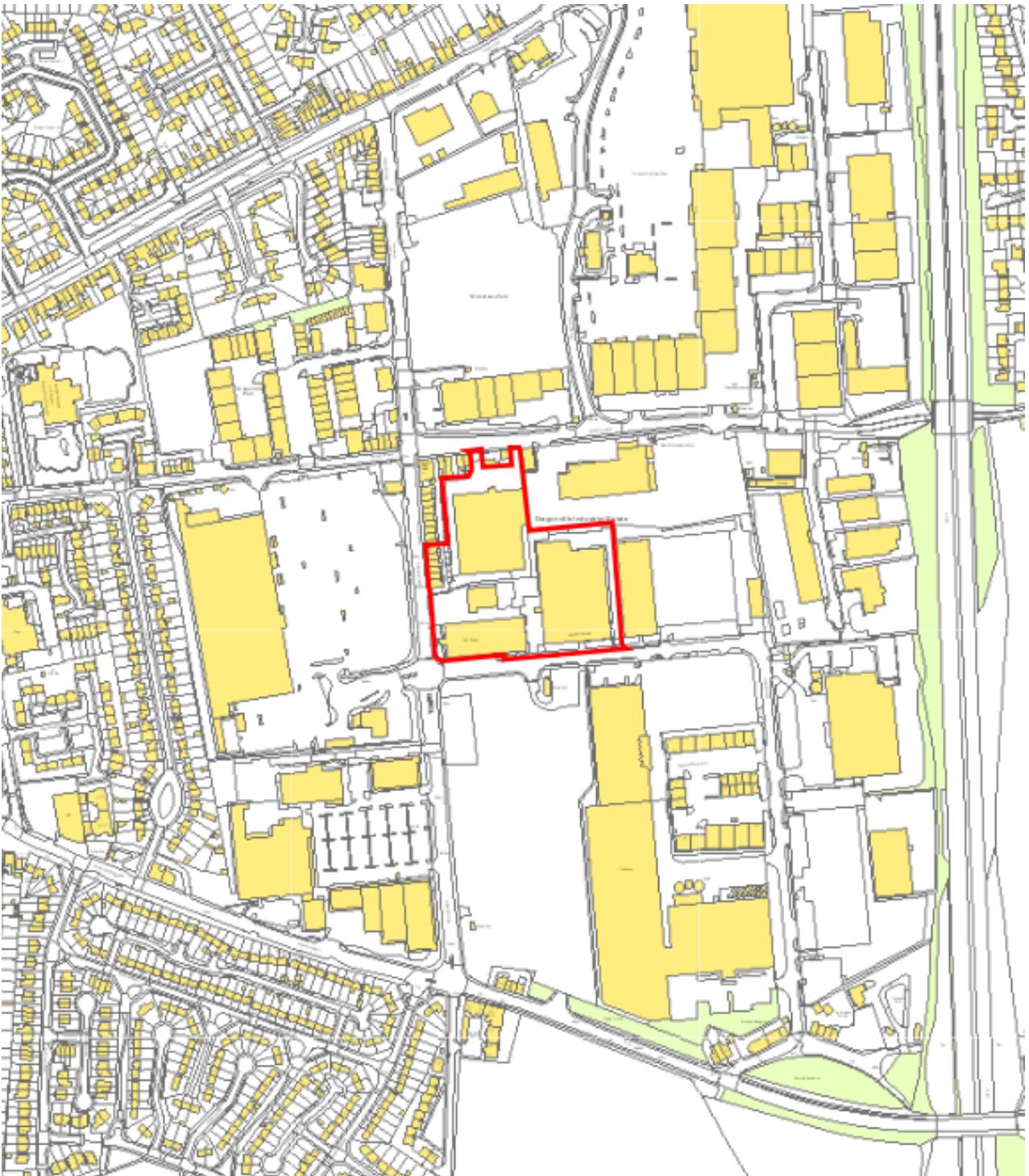
Reason: In the interests of promoting sustainable travel in accordance with Policy T1 of the City of Durham Local Plan and Parts 4 and 8 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this 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.*)

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance notes.
- City of Durham Local Plan 1997.
- DCC SuDs Adoption Guide 2016.
- Statutory, internal and public consultation responses.



 Planning Services	Demolition of Existing Buildings and Construction of Discount Foodstore (Class A1), Non Food Retail Unit (Class A1) with External Garden Centre, Provision of Associated Access, Customer Car Parking, Landscaping and Associated Works. Damson House, Dragon Lane, Gilesgate, Durham	
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005	Comments	
	Date May 2018	Scale 1:1250