

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 19 September 2018

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APPLICATION REF. NO:	18/00509/FUL
STATUTORY DECISION DATE:	18 September 2018
WARD/PARISH:	MIDDLETON ST GEORGE
LOCATION:	Land Opposite Acorn Close, Yarm Road, Middleton St George
DESCRIPTION:	Mixed use development comprising of A1 convenience store and residential development comprising of the erection of 12 No. affordable 2 Bedroom Bungalows (revised scheme) (additional drainage strategy received 5 July 2018, addendum to Design and Access Statement received 9 July 2018, additional Phase II report received 12 July 2018, additional boundary treatment details received 16 July 2018 and additional window and door details received 5 August 2018)
APPLICANT:	COMMERICAL DEVELOPMENT PROJECTS LTD (CDP LTD) & THE MAXEY FAMILY NO. 2 DISCRETIONARY SETTLEMENT

APPLICATION AND SITE DESCRIPTION

Members will recall that an earlier application (17/00911/FUL) for the erection of a cul-de-sac of 10 no. detached dwellings, a new access and convenience store, access and car park on land to the south of Yarm Road, Middleton St George was considered at the April meeting of the Planning Applications Committee. Members were minded to approve the application subject to the applicants entering into a Section 106 Agreement. The Section 106 Agreement has not been signed.

This is a revised scheme which seeks planning permission for the erection of 12 no. affordable bungalows on the western end of the site, in lieu of the 10 no. detached dwellings, accessed via a new access off Yarm Road. The convenience store is to be located on the remainder of the site at its eastern end with a separate access serving this part of the site. This element remains unchanged from the previous application. Ordinarily this application would be considered under the Council's Scheme of Delegation however has been brought to Committee due to its linkages in potentially providing the off-site affordable housing provision for a scheme for 61 houses elsewhere on Yarm Road, Middleton St George (17/01175/FUL) which is also on this agenda for consideration.

The proposed bungalows are to be 2-bedroom, semi-detached properties of a uniform house

type. Plots 1 – 4 and 11 and 12 will be served from a new access off Yarm Road with plots 5 – 10 accessed directly from Yarm Road via 2 no. new shared drives. Each dwelling would have 2 in-curtilage parking spaces. The roadside boundary of plot 4 would be enclosed by a 2.0 metre high acoustic fence to protect the garden area of this properties from road traffic noise. The remaining garden areas fronting Yarm Road would be enclosed by a 1 metre high hooped top metal railing.

The proposed convenience store would comprise a single storey red brick building under a mono-pitched roof located adjacent to Plot 10 and the eastern end of the site, and would provide approximately 372 sq m of retail floorspace. A separate access would serve the convenience store leading to a car park providing a total of 14 no. car parking spaces including 2 no. disabled parking spaces. A servicing area would be provided at the rear of the store.

The application site is roughly triangular in shape and extends to approximately 0.63 hectares of grazing land located to the south side of Yarm Road, Middleton St George, approximately 0.25kms from the centre of the village (The Square). The site is bounded by Yarm Road and existing residential development at Acorn Close and Swain Court to the north and by the railway line to the south and east. Planning permission was granted for the residential development of the site to the west in March 2018 (17/00847/FUL), which is currently under construction, and the two sites are separated by Footpath No. 3 in the Parish of Middleton St George. The site is contained by mature hedgerow and shrub planting on all sides. The roadside hedgerow would be removed as part of the proposals.

The following information has been submitted with the application:

- Planning Statement and Statement of Community Involvement
- Design and Access Statement
- Flood Risk Assessment
- Ecological Appraisal
- Ground Investigation Report
- Archaeological Investigation
- Tree Surveys
- Noise and Vibration Assessment
- Transport Statement

PLANNING HISTORY

17/00911/FUL – Mixed use development comprising A1 convenience store and residential development comprising erection of 10 dwellings. Minded to approve subject to applicants entering into a Section 106 agreement.

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design

- CS4 – Developer Contributions
- CS9 – District and Local Centres and Local Shops and Services
- CS10 – New Housing Development
- CS11 – Meeting Housing Needs
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety

Saved Policies of the Borough of Darlington Local Plan 1997

- E2 – Development Limits
- E12 – Trees and Development
- E14 – Landscaping and Development
- H7 – Areas of Housing Development Restraint

Revised Design of New Development Supplementary Planning Document, July 2011

Planning Obligations Supplementary Planning Document, January 2013

National Planning Policy Framework, 2018

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – No highway objection subject to conditions to secure off-site highway improvements including infrastructure to support the provision of a speed reduction measure on Yarm Road.

Transport Policy – Request a contribution towards the improvement of the Acorn Close bus stop and a condition to secure cycle parking at the convenience store

Environmental Health Officer – Details of acoustic fencing to protect houses from road traffic noise have been submitted and provided the application is built in accordance with the approved plans no further issues in this regard. Conditions required relating to land contamination, noise from the commercial unit and construction impacts.

Durham County Archaeology – Recommend conditional approval to secure the implementation of the provision of the written scheme of investigation.

Lead Local Flood Authority – The applicant has not provided sufficient detail regarding the management of surface water runoff from the proposed development and this information should be secured by condition.

Northumbrian Water Ltd – Recommend condition approval

Railtrack – No objection in principle to the development subject to a number of requirements which must be met.

Architectural Liaison Officer – Crime risk assessment for the proposed development is low. No issues with the overall layout of the site from a ‘Design out Crime’ perspective but advise

against seating outside the retail unit. The concern is that it will attract young people to loiter. In the long term it would be beneficial if the lane to the rear of plots 1 – 4 was made a feature, especially if the proposed development to the south of the railway line goes ahead.

CPRE – Object to the proposal for the following reasons:

- No need for this development as Darlington Borough Council now has a 5-year housing land supply. This also means that policies relating to housing supply carry full weight;
- The site is outside of development limits for Middleton St George meaning that is contrary to Policy E2 and H7. The proposal is also contrary to Core Strategy Policies CS1 and CS14. The proposal cannot therefore be considered to be sustainable development.

Middleton St George Parish Council – No comments

One letter of representation has been received which raises the following issues:

- *Note the number of extra junctions/driveways proposed and being mindful of highway safety;*
- *The scheme is better than the original housing planned, so is a bonus;*

PLANNING ISSUES

The main issues to be taken into consideration in the determination of this planning application are:

- Planning Policy
- Affordable Housing
- Impact on Visual and Residential Amenity
- Loss of Agricultural Land
- Highway and Sustainable Transport Matters
- Sustainable Drainage
- Land Contamination
- Trees and Ecology
- Archaeology
- Delivery

Planning Policy

This application is a resubmission of a previous application on this site for residential development and a convenience store (17/00911/FUL) which was considered by Members earlier this year. Although the Section 106 Agreement has not yet been executed, Members have already accepted the principle of development on this site which is a material consideration in the determination of this application. For the avoidance of doubt the planning policy position, which also makes reference to the recently revised National Planning Policy Framework (NPPF), is set out below.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.

The site is located outside of, but adjacent to the development limits for Middleton St George, as set out in the proposals map accompanying the Borough of Darlington Local Plan 1997. Saved Local Plan Policy E2 (Development Limits) states that most new development will be located inside development limits. The reasoned justification to the policy explains that the limits to development are intended to maintain well-defined settlement boundaries and safeguard the character and appearance of the countryside, and that outside of development limits development will be strictly controlled.

Residential development

The NPPF (2012) required local authorities to plan positively for housing development to meet the needs of their area and this has been carried forward in the latest NPPF (2018). In recent years Darlington has not been able to demonstrate a 5 year supply of deliverable housing sites, when measured against a housing requirement based on an up to date, objectively assessed need (OAN). As a consequence of this relevant policies for the supply of housing have not been considered up to date in line with paragraph 49 of the previous NPPF (2012) and planning applications have been considered in the context of the presumption in favour of sustainable development (paragraph 14 of the NPPF, 2012).

The above situation has recently changed. An update to the Strategic Housing Market Assessment was published in Oct 2017. This work, which should be considered as a material consideration, indicated that 8,440 dwellings will be required over 2016 to 2036, an average of 422 dwellings per year. Although this figure has not been subject to an Examination in Public, it represents the latest full assessment of housing need. As a matter of planning judgement, the Council has determined to use the SHMA housing figure as the baseline against which to assess whether there is a deliverable supply of housing land. A 20% buffer has been applied to this figure due to previous under delivery.

An assessment of sites currently shows that a 6.21 year (approx.) supply of deliverable housing land can be demonstrated. This being the case, as Darlington Borough Council can demonstrate a five year supply of housing land, relevant policies for the supply of housing should be considered up to date and the titled balance in para 11 of the NPPF (2018) is not engaged. Should it be deemed that the housing land supply should be calculated using the standard method in national planning guidance prior to any Public Examination, the Council consider that a five year supply of housing can still be demonstrated.

It is relevant to note that this housing supply includes a number of sites which are located beyond development limits but have been assessed and are considered as being suitable and deliverable for housing development in the emerging Local Plan as the five year supply of deliverable sites cannot be demonstrated within the development limits alone.

The aim of policy E2 is to direct new development to within the development limits of the village and to safeguard the character and appearance of the countryside. As the application site is located beyond the development limits of the village residential development thereon would be contrary to saved policy E2 (Development Limits) of the Darlington Local Plan 1997. The proposal would subsequently be contrary to policies CS1 and H7 due to its location beyond the development limits.

As stated above the application must be determined in accordance with the development plan unless material considerations indicate otherwise. Although the application is contrary to

policies E2, CS1 and H7 there are material considerations which should be considered in the planning balance.

As stated above the recent Strategic Housing Market Assessment has detailed the current requirements for housing in the Borough and these figures have been used to assist preparation of the emerging Local Plan. A number of sites which contribute to the five year supply which are located beyond the settlement limits have been identified in the emerging Local Plan as suitable and deliverable sites for housing.

The five year supply of deliverable sites cannot be demonstrated within the development limits alone. The application site is considered to be suitable and deliverable for housing in the emerging Local Plan. It makes a valuable contribution to the Council achieving a five year supply of housing land and boosting significantly the supply of housing in the Borough.

The second part of policy E2 relating to the protection of the character and appearance of the countryside is still relevant and should be considered in the planning balance. It is considered that residential development on this site would not have a significant impact on the character and appearance of the countryside.

Therefore, despite the conflict with policy E2 and subsequently CS1 and H7, when considered in the context of the five year supply and emerging Local Plan the principle of residential development on this site is considered to be acceptable.

In addition to the above policy CS11 of the Core Strategy outlines that new housing will be required to contribute to achieving an overall balanced housing stock that better meets local needs and aspirations, particularly the needs of an ageing population and increasing affordable housing provision. Darlington's Strategic Housing Market Assessment 2015 identifies that the borough does have an ageing population and current Government policy is focused on supporting older people to live independently at home. The assessment also identifies a substantial need for affordable dwellings. As such the scheme which includes 12 affordable bungalows would assist in addressing the identified housing needs of the borough.

Convenience Store

The proposed convenience store will provide approximately 372sqm (gross) of retail floorspace. It is also located beyond the development limits of the village and is not within an existing centre. Paragraph 86 of the NPPF (2018) states local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan.

The nearest existing centre is at Middleton St George to the west. This centre is referenced in Core Strategy Policy CS9 and is mapped in the Interim Planning Position Statement. The applicant has outlined in the supporting statement that an assessment has taken place of any alternative premises or land within the defined centre or edge of centre. The defined retail centre is tightly drawn and comprises of two storey premises and no open land with development potential. It concludes that no sequentially preferable sites are available. It is considered that the sequential test has been met.

There are no local thresholds for an impact assessment within the Core Strategy and the proposed unit is below the threshold set out in paragraph 89 of the NPPF (2,500sqm). Consequently an impact assessment is not required.

Policy CS9 also states that individual local shops which meet the day to day needs of nearby residents without the need to use a car will be protected and promoted. Proposed new shops in such circumstances will be limited to a maximum 100sqm gross floorspace unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated, in which case convenience shops up to 400 sqm gross floor space will be permitted. The proposal is 372sqm and would therefore fall within the above mentioned category of the policy. As outlined Middleton St George, is one of the large serviced villages in the borough and the Council are proposing a number of housing allocations in the area in the emerging Local Plan. As such it is considered that there will be further need in the village for convenience retail in the future.

In view of the above and in the context of the emerging Local Plan it is considered that the principle of the retail unit is acceptable.

Affordable Housing

Policy CS11 (Meeting Housing Needs) states that new housing and the conversion and adaptation of existing dwellings will be required to contribute to achieving an overall balanced housing stock that better meets the needs and aspirations, particularly the needs of an ageing population and increasing affordable housing stock. The agent has confirmed that the properties, once built, will be transferred to Endeavour Housing Association, part of North Star Housing Group. They have confirmed that the properties will be available for persons 55 years and over, with properties available for shared ownership and the rest tenanted on an affordable rent basis. Allocations would be prioritised to those living in Middleton St George, or have a strong local connection to the village, and would benefit from bungalow accommodation. The second priority group would be those who live in Darlington and thirdly those from the wider area. A planning condition will require the submission of exact details in due course.

The properties will provide one of the affordable housing options for the application for 61 houses at Oak Tree (17/01775/FUL) which is on this agenda for consideration, to be secured by a Section 106 Agreement attached to that permission.

The bungalows will meet the definition of affordable housing as defined in Annex 2 of the NPPF to be secured by a planning condition. As the proposal is for 100% affordable housing provision on the site there would be no requirement for planning obligations as one of the exemptions set out in the Planning Obligations SPD and Policy CS4 (Developer Contributions).

Impact on Visual and Residential Amenity

CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place. This includes protecting and enhancing the separation and the intrinsic qualities of the openness between settlements. The reasoned justification to Saved Local Plan Policy E2 (Development Limits) also seeks to maintain well-defined settlement boundaries and safeguard the character and appearance of the countryside by strictly controlling development outside of development limits.

The site, which is currently grassed agricultural land, adjoins the building form of the village along part of its southern boundary. While the proposal would result in the loss of this field and the roadside hedge along its northern boundary, it is considered that the development would appear as a modest extension to this building form, particularly when seen in the context of the

development of the neighbouring site to the west, for which planning permission was recently granted (17/00847/FUL). As such the development of the site is not considered to affect the relationship between the village and the surrounding countryside, nor impact adversely on the character and appearance of the countryside which Policy CS14 and Saved Policy E2 seek to protect. Suitable planning conditions relating to ecological mitigation and tree protection would be attached to ensure that the overall impact of the development would be reduced to an acceptable level.

Policy CS2 (Achieving High Quality, Sustainable Design) states that new development should reflect and/or enhance Darlington's distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. The NPPF at paragraph 124 considers that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Residential development

The residential element of the proposed development would comprise a total of 12 semi-detached bungalows on the site at a density of approximately 24 dwellings per hectare, which is broadly consistent with the density of existing development in this part of Middleton St George. The proposed bungalows would be accessed off Yarm Road arranged around a cul-de-sac, with houses either fronting or presenting gable end on to Yarm Road, in a similar arrangement to existing dwellings at Acorn Close and The Beeches opposite. Plots 5 – 10 will be accessed by two private drives off Yarm Road. The bungalows will be of a uniform appearance, constructed of red brick and tiles, reflective of existing dwellings within the vicinity.

The layout of the proposed dwellings will ensure that appropriate separation distances between the proposed dwellings, in order to achieve satisfactory levels of residential amenity, will be achieved. The proposed site layout also shows that the proposed development can be accommodated without comprising the residential amenities of the properties opposite on Acorn Close and Swain Court, in terms of light, outlook and privacy. Although the openness of the land would be eroded and existing views from properties opposite would be affected, the right to a view is not a material consideration to be taken into account in consideration of the application.

The site is bounded by Yarm Road to the north and the Darlington to Middlesbrough Railway Line to the south. A Noise and Vibration Assessment has been submitted with the application which assesses the extent to which the proposed residential development will be affected by road traffic and railway noise and also to consider the potential noise impact of the convenience store which will be considered in more detail in the next section of this report. The assessment concludes that the occupants of the proposed dwellings will not be adversely affected by noise from the railway line although those dwellings on the Yarm Road frontage may be affected by road traffic noise. With double glazing and trickle vents internal noise levels within these properties will be sufficient to minimise disruption to future residents. In order to achieve the necessary noise levels for the garden areas of those properties with gardens adjacent to Yarm Road, a 2.0 metre high acoustic fence will be required around parts of the side/rear garden area of plot 4. Details of the fencing have been submitted and the Environmental Health Officer is satisfied with the proposed details on the basis that the acoustic fencing is provided in accordance with the submitted details.

Convenience store

The proposed convenience store is unchanged from the previous application and will be located at the eastern end of the site roughly opposite the entrance to Swain Court. It is to be a single storey building, constructed of brick, with aluminium framed windows and doors, under a mono-pitched roof, with a pressed metal fascia beneath. It will have a maximum height of approximately 5 metres. Access, parking for 16 no. vehicles, cycle and motorcycle parking and a servicing area will be provided to the east of the proposed store. The proposed convenience store is considered to be acceptable in terms of scale, design and use of materials in the context of both existing and proposed residential development within the vicinity of the site.

The convenience store will be sited adjacent to the east gable end of plot 10, separated by a 2.0 metre high solid timber acoustic fence. There will be a separation distance of approximately 5 metres between the convenience store and the proposed dwelling at plot 10 which will run the full length of this property and its rear garden. The mono-pitched roof over the convenience store will slope from east to west, being at its lowest height of approximately 3.9 metres adjacent to the eastern boundary with plot 10. While the store will be apparent and visible from the rear of this property at this height it is not considered to have an unduly overbearing impact on the amenities of this property in terms of light or outlook. Similarly being located on the opposite side of Yarm Road the proposed convenience store is not considered to have an unacceptable impact on the amenities of the existing dwellings within the immediate vicinity in this regard.

The Noise and Vibration Assessment has considered the impact of the proposed convenience store on the amenities of existing and proposed dwellings. The assessment considers the noise impact of the proposed store to be negligible however a series of conditions requiring the submission of details of all external plant, equipment and machinery, the submission of a noise assessment to assess the noise rating level, restricting construction hours and activities and limiting servicing hours have been suggested by the Environmental Health Officer to minimise the impact of the proposed convenience store on the amenities of nearby residential properties.

The Police Architectural Liaison Officer has commented on the application and although he identifies that shops have the potential for people to congregate in the area, the overall crime risk associated with the proposed development is considered to be low, based on reported incidences of crime in the area.

Subject to these conditions, the proposal is therefore considered to be of good design and achieves appropriate standards of residential amenity in accordance with the principles of the NPPF and Policies CS2 and CS16.

Loss of Agricultural Land

Paragraph 170 of the NPPF states that local planning authorities should take into account the economic, and other, benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. In cases where there is doubt about the quality of the land, the applicant would be asked to submit further information. In this case, the land the subject of this application is considered to be moderate in terms of its agricultural land quality, having remained as grazing land for a number of years. In this context it is considered that the impact of the proposal on the loss of agricultural land is not significant.

Highway and Sustainable Transport Matters

A Transport Statement (TS) has been submitted with the application to consider the impact on the local highway network in terms of trip generation in the peak hours. The TS concludes that the proposed development would produce a minimal number of trips on the peak highway periods (combined totals of 14 two way trips in the AM peak and 37 two way trips in the PM peak from the proposed housing and retail elements of the proposal). The Highway Engineer advises that some of the trips to the convenience store could be argued as being 'pass-by' trips, already on the network not creating additional traffic movements therefore the overall impact would be slightly lessened. The trip generation assessment is considered not to have a severe impact on the highway network considering the existing spare capacity in the network.

Based on DBC surveys, Yarm Road has recorded traffic flows of around 3300 vehicles per day (approx. 300 vehicles two-way in the AM and PM peak) which is below the average figures (4000 vehicles per day) quoted in Manual for Streets for acceptable traffic flow and road safety on streets with direct frontage access. Even with the addition of the traffic flow from the current application, and that predicted as part of the development of the site to the west for 44 dwellings (predicted to create an additional 33 two way trips in the AM and PM peak), this is still below the average of 4000 vehicles per day.

The revised internal highways layout of the housing element is fully compliant with adoptable standards and all plots have parking provision appropriate to dwelling. Plot 5 – 10 now front Yarm Road and have direct access via two shared drives and an additional single drive. The traffic calming feature has been relocated this revised layout and appropriate visibility is available for the 30mph speed limit.

The traffic calming feature shows priority given to traffic movements out of the village whereby this should slow vehicles entering the village to the appropriate speed. The design also provides a revised 30mph speed limit from Yarm Road/Woolsington Drive roundabout. The change of speed limit and traffic calming features have been discussed with the Police and the Highway Engineer advises that they support this change. The speed reduction measures provided on Yarm Road should be covered under a Section 106 agreement (£12,000) or secured as part of the S278 agreement.

Parking restrictions have been proposed on Yarm Road along the frontage of the development to avoid overspill parking and deliveries from impacting on safety at the new junction. Double yellow lines should be extended further up the development and on the opposite side of the road outside 16 Acorn Close, to help ensure visibility of build out/pedestrian crossing and prevent parked cars restricting visibility for access and egress at the shared drive of plots 6 and 7.

The convenience store and combined car park and servicing area would be served by a separate access approximately 27 metres from the exit off the Woolsington Drive/Yarm Road roundabout. This proposed arrangement remains unchanged from the previously approved scheme. As before, the retail access junction spacing falls marginally short of the desirable minimum spaces at 27m (desirable 30m) however given the introduction of a 30mph speed limit and traffic calming feature, on balance it is considered acceptable as visibility splays to the order of 2.4m x 43m minimum, applicable to a 30mph speed limit can be achieved. The parking accumulation figures for the retail car park are acceptable, however the configuration of the car park and servicing areas is such that it can only accommodate a servicing vehicle of 12.1m or less. A condition requiring the submission of a servicing management plan is therefore attached once more.

The Council's Sustainable Transport Officer advises that the site is within the required 400m walking distance to a bus stop, with the closest bus stop less than 100 metres away on Yarm Road. Service 12/12A runs from these stops hourly Monday to Saturday, although there is no evening or Sunday service. Dinsdale Railway Station is approximately 900m away giving good transport links to Saltburn and Darlington/Bishop Auckland with a half hourly service. Off-site pedestrian improvements will link into existing pedestrian and cycling infrastructure. A crossing point with dropped kerbs/tactile paving along Yarm Road is needed to allow pedestrians to safely cross Yarm Road, to be secured by an appropriate planning condition. This will also ensure a safe route to school is provided.

A new bus stop has been provided and this should include raised kerbs, details of which should be provided as part of the S278 agreement. No further sustainable transport contribution is required in this instance since the off-site pedestrian improvements and the financial contribution are considered sufficient to mitigate against the impact of the development and a further contribution would not meet the tests of being reasonable or necessary.

Sustainable Drainage

Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety) states that new development should protect and, where possible, improve environmental resources, whilst ensuring there is no adverse impact on the environment, general amenity and the health and safety of the community. New development will be focussed on areas of low flood risk; Flood Zone 1.

A Flood Risk Assessment (FRA) and Drainage Strategy (DS) have been submitted with the application which confirm that the site is located within Flood Zone 1 and demonstrates that the proposal, subject to a series of mitigation measures, will be at a low risk of flooding from surrounding watercourse, surface water, sewers and groundwater. Stockton Borough Council, who acts as the Council's technical advisors for SuDS, has assessed the level of information submitted with this application. They do not raise concerns to the development subject to conditions being attached to any approval requiring the submission of a full Surface Water Drainage and Management scheme for the site to include detailed design of the surface water management system, a hydraulic assessment of the existing overland flow paths and the watercourse, including the railway culvert, build program for the provision of the critical surface water drainage infrastructure, management plans, details of adoption responsibilities and management plans / maintenance, that the development is in accordance with the submitted Flood Risk Assessment and that no dwellings should be occupied until the surface water management system for the development is in place and fully operational.

Land Contamination

The application has been submitted with a Phase 1 Desk Top Study Report which identifies that the majority of the site has remained an undeveloped farm land/pasture land with the exception of a small tramway/railway line which cuts across the very eastern boundary of the site. The historical maps document the former industrial land uses on the surrounding land as well as the construction of the railway embankment which forms the southern boundary of the site.

The Desk Top Study Report recommends, given the former industrial land uses on the site and the surrounding uses, that further site investigations are needed to establish that the site can be developed for the proposed end uses. The report also recommends that due to the potential of made ground on the site a series of ground gas monitoring wells be installed however the

Council's Environmental Health Officer does not consider this necessary given that the proposed car park for the convenience store is in the location most likely to be impacted by ground gas, and that information available at this stage does not warrant such investigations. As such it is recommended that the standard land contamination conditions are attached to any approved granted which if the initial site investigation shows that the site can be development without further remediation works then the remaining conditions can be discharged if the applicant justifies that further remediation is not warranted based on the site investigation. The proposal therefore complies with Policy CS16 (Protecting Environmental Resources, Human Health and Safety) in this regard.

Trees and Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping.

Saved Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows on and adjoining the site.

Paragraph 170 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils and minimising impacts on and providing net gains for biodiversity.

An Ecological Appraisal has been submitted with the application which concludes that the site overall is of low to moderate ecological value with no evidence of protected species recorded on the site itself. The boundary hedgerows provide habitats of greatest ecological value for nesting birds and commuting bats and those to the south and west will be retained and will continue to be of benefit. Accordingly, the Ecological Appraisal recommends a series of mitigation measures to include an indigenous landscaping scheme and the provision of bird and bat nesting opportunities within the proposed development. Subject to a condition securing these mitigation measures, in addition to conditions limiting the removal of the roadside hedge to outside the bird nesting season and the protection of trees and hedgerows on the site during the construction period, the proposed development is considered to comply with Policy CS15.

Archaeology

An Archaeological Evaluation and Written Scheme of Investigation have been submitted with the application which has revealed nothing of archaeological interest on the site and no further work is required. On this basis Durham County Archaeology Department has raised no archaeological objection to the scheme. The proposal therefore complies with the requirements of paragraph 199 of the NPPF and Policy CS14 (Promoting Local Character and Distinctiveness) in this regard.

Delivery

To ensure the Council maintains a five year supply of housing land and to progress to the delivery of dwellings within a short time frame a condition limiting the implementation of this permission to 18 months is considered appropriate.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The application site is located beyond the development limits for the village. Despite the conflict with Saved Local Plan Policies E2 and H7 and Core Strategy Policy CS1, the application site is in area which the Council considers to be suitable for housing development and are proposing for allocation in the emerging Local Plan. The site also makes a valuable contribution to the Council achieving a five-year supply of housing land and boosting significantly the supply of housing and would assist in addressing the identified housing needs of the Borough by providing 12 no. affordable bungalows.

When considered in the context of the emerging Local Plan, the contribution to the 5 year supply of housing land and the conclusion of the sequential test, the principle of both residential and retail development are considered to be acceptable on the application site.

The proposal does not result in any adverse impacts on highway safety, surface water drainage or on residential and visual amenity, with appropriate mitigation measures in place to be secured by planning conditions or as part of the Section 278 agreement. As the scheme is for 100% affordable housing the application is exempt from the need for any financial contributions secured by a Section 106 Agreement in accordance with the Planning Obligations SPD.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby permitted shall be commenced not later than 18 months from the date of this permission.

REASON – To accord with the provisions of 92(2) of the Town and Country Planning Act 1990 and to ensure the speedy provision of the site for the approved development.

2. The development hereby permitted shall be carried out in accordance with the approved plans as detailed below:

Affordable bungalows, semi-detached plans and elevations, drawing number HN/45418(10) P1 June 2018

Site plan proposed, drawing number HN/45418(10) 01A June 2018

Proposed retail unit, drawing number (SK-)04C dated June 2017

Enclosures plan, drawing number HN/45418(01) 02C dated June 2018

Enclosures detail, drawing number HN/45418(01) 03 dated June 2018

Window schedule, drawing number HN/45418(10) W1 dated August 2018

Window schedule, drawing number HN/45418(10) W2 dated August 2018

Window detail, drawing number HN/45418(10) W3 dated August 2018

Proposed Access and Traffic Calming Scheme, drawing number 002 Rev. E

REASON – To ensure the development is carried out in accordance with the planning permission.

3. B4 (Details of materials to be submitted)
4. The development shall not begin until a scheme for the provision of twelve affordable dwellings on the site has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it, in perpetuity. The scheme shall include:
 - (a) The tenure of the affordable housing provision to be made;
 - (b) The timing of the construction of the affordable housing;
 - (c) The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no Registered Social Landlord is involved);
 - (d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - (e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – To comply with Core Strategy Policy CS11.

5. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include the provision of a new footway across the entire frontage of the site and associated crossings on Yarm Road to connect into the surrounding infrastructure, relocated speed limit and associated parking restrictions and a new bus stop. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interest of highway safety.

6. A Road Safety Audit shall be carried out for all of the works within the public highways and the scope of the Audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless in complete accordance with the approved Audit.

REASON – In the interest of highway safety.

7. Prior to the first occupation of the convenience store hereby permitted, a scheme to provide secure cycle parking on the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the convenience store shall not be occupied until the approved details have been implemented in full and shall be retained for the duration of the development.

REASON – To encourage access to the site by sustainable modes of transport.

8. No development in connection with the convenience store hereby approved shall take place until a Servicing Management Plan, which shall limit the size of service vehicles visiting the site and make and providing for the management of the car park in connection with service vehicles has been submitted to and approved in writing by the Local Planning Authority. Thereafter all vehicle servicing shall take place in accordance with the approved Servicing Management Plan.

REASON – In the interest of highway safety.

9. No external plant, equipment or machinery shall be installed as part of the convenience store of the proposed development without the prior written approval of the Local Planning Authority. Where external plant, equipment or machinery is proposed details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed and the proposed locations, and if deemed necessary by the Local Planning Authority, appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the development.

REASON – In the interest of residential amenity.

10. At the request of the Local Planning Authority a noise impact assessment shall be carried out in connection with the convenience store hereby approved by a suitably qualified acoustic consultant/engineer (appointed by the applicant) to assess the noise rating level in accordance with BS4142:2014 – ‘Method for rating and assessing industrial and commercial sound’. The rating level ($L_{A,T,r}$), as defined in BS4142:2014, from external plant, machinery and equipment associated with the development (whether operating individually or when all plant is operating simultaneously) shall not exceed the day-time and night-time background noise level ($L_{A90,T}$) at noise sensitive receptors. The noise sensitive receptors and background noise levels to be used in the BS4142:2014 assessment shall be agreed in advance with the Local Planning Authority.

REASON – In the interest of residential amenity.

11. Prior to the commencement of development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:
- a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management ‘Guidance on the assessment of dust from demolition and construction’ February 2014;
 - b) Methods for controlling noise and vibration during the construction phase shall take account of the guidance contained within BS5228 ‘Code of Practice for noise and vibration control on construction and open sites’ 2009;
 - c) Construction Traffic Routes, including parking areas for staff and visitors;
 - d) Details of wheel washing;
 - e) Road Maintenance;
 - f) Warning Signage

The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of residential amenity and highway safety.

12. Construction work shall not take place outside the hours of 08.00 – 18.00 Monday to Friday, 08.00 – 13.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written permission of the Local Planning Authority.

REASON – In the interest of residential amenity.

13. The use of the convenience store hereby permitted shall not commence until details of the arrangements for the storing of waste or refuse have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – In the interest of residential amenity.

14. Deliveries to and the collection of waste from the convenience store hereby permitted shall only be permitted whilst the premises is open and in any event only between the hours of 07.00 and 19.00 Monday to Saturday and 10.00 and 18.00 on Sundays and Bank Holidays.

REASON – In the interest of residential amenity.

15. CL3 (Phase 2 Site Investigation Works)
16. CL4 (Phase 3 Remediation and Verification Strategy)
17. CL5 (Any additional contamination)
18. CL6 (Verification and Completion Report)
19. Prior to the commencement being beneficially occupied, the provisions of the Written Scheme of Investigation for the site (document T23767.01) will be implemented in full.

REASON – To comply with paragraph 199 of the National Planning Policy Framework which ensures information gathered becomes publicly accessible.

20. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled 'Flood Risk Assessment' dated September 2017. The drainage scheme shall ensure that foul flows discharge to the combined sewer at manhole 8506 and ensure that surface water discharges to the existing watercourse.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

21. The development hereby approved shall not be commenced on site, until a scheme of 'Surface Water Drainage and Management' for the implementation, maintenance and management of the sustainable drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and

thereafter managed and maintained in accordance with the approved details. The scheme shall include, but not be restricted to providing the following details:

- (i) Detailed design of the surface water management system including design water levels and finished floor levels demonstrating a suitable freeboard;
- (ii) A detailed hydraulic assessment of existing overland flow paths and the watercourse including the culvert under the railway; the risk of blockage at the railway culvert; and existing overland flow paths should flows exceed the capacity of the watercourse and/or railway culvert;
- (iii) A build program and timetable for the provision of the critical surface water drainage infrastructure;
- (iv) Details of adoption responsibilities;
- (v) Management plan for the Surface Water Drainage scheme.

The building hereby approved shall not be brought into use until the approved 'Surface Water Drainage' scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to the site or surrounding area, in accordance with the guidance within Core Strategy Policy CS10 and the National Planning Policy Framework.

22. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 1 September 2018 and Drainage Strategy dated 13 June 2018 and the following mitigation measures detailed in the FRA:

- Limiting the surface water run-off generated by the impermeable areas of the development up to and including the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. This will be achieved in accordance with the calculations within the Appendix G stating a Q_{bar} of 2.5l/s.

The mitigation measures shall be fully implemented prior to the occupation of the development hereby permitted and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed in writing by the Local Planning Authority.

REASON – To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

23. The building hereby approved shall not be brought into use until:

- (i) Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building;
- (ii) A management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning

Authority, to include the funding arrangements and cover the lifetime of the development.

REASON – To reduce flood risk and ensure satisfactory long-term maintenance for the lifetime of the development.

24. Prior to the commencement of the development hereby permitted details of the proposed surface water and foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Such a scheme shall be designed to ensure that all surface water and foul water drainage from the development area shall be directed away from Network Rail's retained land and structures into suitable drainage systems. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

25. Prior to the commencement of development hereby permitted full overland flow conditions shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Such details shall ensure that the construction of surface water retention ponds/tanks, SuDS or flow control systems do not take place within 30m of the Network Rail boundary where these systems are proposed to be **above** existing track level or 20m of the Network Rail boundary where these systems are proposed to be **below** existing track level. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

26. Notwithstanding any details of the proposed boundary treatment submitted as part of the application, details of trespass proof fence to be built adjacent to Network Rail's boundary, shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to the commencement of development. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

27. In the event that excavations/piling/buildings are to be located within 10 metres of the railway boundary, prior to the commencement of the development hereby permitted a method statement shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail. This should include an outline of the proposed method of construction, risk assessment in relating to the railway and construction traffic management plan. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

28. In the event that external lighting is to be used either during the construction or operational phases of the development, details shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail prior to the commencement of development. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

29. A landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority, in conjunction with Network Rail, prior to any works commencing and, upon approval of such scheme, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority. Where any trees/shrubs are to be planted adjacent to the railway boundary these shrubs shall be positioned at a minimum distance greater than their predicted mature height from the boundary and only trees/shrubs from Network Rail's list of permitted tree species shall be used. Thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for period of five years to the satisfaction of the Local Planning Authority.

REASON – In the interests of the visual amenities of the area and to ensure the safety, operational needs and integrity of the railway.

30. The ecological enhancement measures set out in the Brooks Ecological 'Preliminary Ecological Appraisal' dated August 2017 shall be implemented in full. In addition, no development shall take place until precise details of a scheme for the mitigation of the loss of the northern boundary hedge, for the protection of hedgerow to be retained on site, and the provision for bird and bat nesting opportunities on the site, in accordance with the recommendation of that report has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on site.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity).

31. No tree or hedgerow removal shall take place within the bird breeding season (March to September inclusive) unless a bird nesting survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.

REASON – In the interest of nesting birds.

INFORMATIVES

Highway Matters

The developer is required to submit detailed drawings of the proposed internal highway and off site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 Agreement before the commencement of works on site. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr S Brannan 01325 406663) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director – Highways, Design and Projects (contact Mrs P McGuckin 01325 406651) to discuss naming and numbering of the development.

An appropriate street lighting scheme and design to cover the new highways and any proposed amendments to the existing lighting should be submitted to and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr M Clarkson 01325 406652) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director – Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the introduction of Traffic Regulation Orders in connection with a revised 30mph zone and parking restrictions on Yarm Road.

Sustainable Drainage

Surface water discharges from this site shall be flow regulated to ensure that flooding problems elsewhere in the catchment are not exacerbated. **The discharge rates from the site will be restricted to the greenfield runoff rate (QBAR value)** with sufficient storage within the system to accommodate a **1 in 30 year storm**. The design shall also ensure that storm water resulting from a 1 in 100 year event plus climate change surcharging the drainage system can be stored on site without risk to people or property and without overflowing into drains or watercourse. Full Micro Drainage design files (mdx files) including the catchment plan and 3D topographical survey must be submitted for approval. The flow path of flood waters exiting the site as a result of a rainfall event exceeding the 1 in 100 year even plus climate change should also be provided.

The layout of any proposed development and sustainable drainage system should be designed to mimic natural drainage flow paths, utilising existing nature low-lying areas and conveyance paths where appropriate. This means considering the existing blue/green corridors across the proposed site and utilising the natural low-lying areas for the surface water management system for the development. To mimic natural catchment process as closely as possible, a ‘management train’ is required, it is fundamental to designing a successful SuDS system, it uses techniques in series to reduce pollution, flow rates and volumes. The detailed design must show flow routes, SuDS component section, sub-catchment, discharge and flow control locations, storage features and how SuDS integrate into the landscape.

The developer will need to provide a detailed programme including time table for the construction of the main surface water drainage infrastructure.

The proposed development must not increase the risk of surface water runoff from the site or cause any increased flood risk to neighbouring sites. Any increase in surface water generated by the proposed development or existing surface water/groundwater issues on the site must be alleviated by the installation of a sustainable drainage system within the site.

If the applicant proposes to discharge surface water into an ordinary watercourse a land drainage consent will be required from the Lead Local Flood Authority (LFFA). A land drainage consent is a separate application that could take up to **8 weeks** for completion and no works on the watercourse can proceed until consent has been approved by the LFFA.

The updated guidance states the new allowances for climate change now require both +20% scenario and a +40% scenario. Therefore, new surface water drainage schemes designed within the Flood Risk Assessment/Drainage Strategies require at least three sets of calculations:

1. 1 in 30 year event;

2. 1 in 100 year plus 20% climate change;
3. 1 in 100 year plus 40% climate change;

New development drainage systems should be designed to include a 10% uplift to runoff to account for 'Urban Creep'.

A sensitivity test against the 40% allowance is required to ensure that the additional runoff is wholly contained within the site and there is no increase in the rate of runoff discharged from the site. It must be demonstrated that there are no implications to people from the increased flood hazard (volume between 20% and 40% allowance). It is crucial that the additional runoff from the 40% is contained within the site and does not contribute to an increased flood risk to people/property/critical infrastructure/third parties elsewhere.

If the flows cannot be contained within the site without increasing risk to properties or main infrastructure a 40% allowance must be provided.

The applicant must consider local guidance detailed in the 'Tees Valley Local Standards for Sustainable Drainage'. It is recommended that the applicant contacts the Flood Risk Management Team at an early stage to discuss surface water management requirements and their proposed surface water drainage solution for this proposed development.

Railtrack Drainage

All surface and foul water drainage from the development area be directed away from Network Rail's retained land and structures into suitable drainage systems, the details of which are to be approved by Network Rail before construction starts on site.

Water must not be caused to pond on or near railway land either during or after any construction-related activity.

The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment.

The construction of soakaways within any lease area is not permitted.

If a Network Rail owned underline structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or the surrounding land.

Wayleaves and or easements for underline drainage assets

The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures supporting railway live loading.

Protection of existing railway drainage assets within a clearance area

There are likely to be existing railway drainage assets within the vicinity of the proposed works.

No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent.

There must be no interfering with existing drainage assets/systems without Network Rail's written permission. The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site. Please contact Matthew Shelton (matthew.shelton@networkrail.co.uk) for further information and assistance.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a 'fail safe' manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network RAILS infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a 'fail safe' manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. 'possession' which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavation/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted to NR for approval.

OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as

below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, detailed of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Scaffolding

Any scaffolding which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

Bridge Strikes

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in bridge strikes. Vehicles hitting railway bridges cause significant disruption and delay to rail users. It should be noted that the adjacent railway bridge on Yarm Road has a height restriction of 13'6" and this may be a particular issue for large construction vehicles associated with the site and also delivery lorries associated with the proposed store. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Noise/Soundproofing

The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. In a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.

Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Cretaeagus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata "Zebrina"

Not Acceptable:

Acer (*Acer pseudoplatanus*), Aspen – Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra var, betulifolia*), Lombardy Poplar (*Populus nigra var, italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

A comprehensive list of permitted tree species is available upon request.

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of the lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington's Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS4 – Developer Contributions
- CS9 – District and Local Centres and Local Shops and Services
- CS10 – New Housing Development
- CS11 – Meeting Housing Needs
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety

Saved Policies of the Borough of Darlington Local Plan 1997

- E2 – Development Limits
- E12 – Trees and Development
- E14 – Landscaping and Development
- H7 – Areas of Housing Development Restraint

Revised Design of New Development Supplementary Planning Document, July 2011

Planning Obligations Supplementary Planning Document, January 2013

National Planning Policy Framework, 2018