

Prepared on behalf of

**The Acquiring Authority
Darlington Borough Council**

**Town and Country Planning Act 1990
Section 247**

Department for Transport - National Transport Casework Team

**PROPOSED STOPPING UP OF HIGHWAY AT DARLINGTON STATION GATEWAY,
ALBERT STREET, DARLINGTON DL1 4AD
OS GRID REFERENCE: E: 429610 N: 514216**

REFERENCE NUMBER: NATTRAN/NE/S247/4865

**Darlington Station Gateway MSCP and Public Realm Works
Land off Neasham Road,
Bank Top, Darlington**

**Proof Of Evidence
David Colley B.Eng, MCIHT**

Control Sheet

CLIENT: Darlington Borough Council


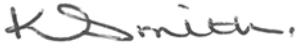

PROJECT TITLE: Darlington Station Gateway MSCP and Public Realm Works
Land Off Neasham Road
Darlington Station
Bank Top,
Darlington







REPORT TITLE: Proof of Evidence for S247 Stopping up Application

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Acknowledgements:

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Contents

Page No

1	INTRODUCTION	7
2	THE SITE AND CURRENT HIGHWAYS TO BE STOPPED-UP	14
3	OBJECTIONS TO THE STOPPING UP ORDER.....	17
4	THE RELATIONSHIP OF THE HIGHWAY TO BE STOPPED-UP TO THE PROPOSED DEVELOPMENT	20
5	SUMMARY AND CONCLUSIONS	23

Appendices

APPENDIX DC-SUO 1

Extract of Committee Minutes

APPENDIX DC-SUO 2

S247 Application form and plan (SGMSCP-FHT-Z0-SL-DR-H-00012 P04 – Stopping-up Plan)

APPENDIX DC-SUO 3

Copy of the notice, draft order and stopping-up plan

APPENDIX DC-SUO 4

Copy of three Objections

Northern Gas Networks

Virgin

Marsh Howe Ltd

APPENDIX DC-SUO 5

Inquiry Notice and Letter dated 1 December 2021

APPENDIX DC-SUO 6

SGMSCP-FHT-Z0-SL-DR-H-00005 P06 – Areas of Highway to be Stopped – up and Created

SGMSCP-FHT-Z0-SL-DR-H-00012 P05 – Stopping Up Plan

APPENDIX DC-SUO 7

Copy of Planning Decision Notice 21/00688/DC

1 INTRODUCTION

1.1 *Personal Details*

1.1.1 My name is David John Colley and I am an Associate Director of Sanderson Associates. I am preparing the Statement of Case and a Proof of Evidence for the S247 Stopping up Application. I am a corporate member of the Chartered Institution of Highways and Transportation and a Graduate member of the Institution of Civil Engineers and Institution of Structural Engineers. I hold a B. Eng (hons) degree in Civil Engineering from Trent Polytechnic, Nottingham. In total, I have 20 years' experience, whilst working with Sanderson Associates, in the transportation and highway assessment of developments, including the provision of expert witness evidence at public inquiries for planning appeals and also the stopping up and diversion of highway under Sections 247 and S253 of the Town and Country Planning Act 1990. I have also prepared and managed applications under Section 247 for the stopping up and improvement of highway associated with development proposals for our clients.

1.2 *Background to Involvement*

1.2.1 Fairhurst has been appointed by Darlington Borough Council to provide a Statement of Case and Proof of Evidence to support the proposed S247 Application for the stopping up of highway at Darlington Station Gateway, Albert Street, Darlington DL1 4AD OS Grid Reference: E: 429610 N: 514216, S247 application reference NATTRAN/NE/S247/4865.

1.3 Sanderson Associates (Consulting Engineers) Limited head office is in Huddersfield and is part of Fairhurst a national multi-disciplinary consultancy.

1.4 A request for authority to pursue the S247 Stopping-Up application was submitted to Cabinet on the 12 January 2021 and granted. An extract from the Cabinet meeting minutes is attached a copy of the **APPENDIX DC-SUO 1**.

- 1.5 An application was submitted by Darlington Borough Council on 10 September 2021 to stop-up and create new highway to the west of Neasham Road, Darlington, under Section 247 of the Town and Country Planning Act 1990. A copy of the S247 application form and plan (SGMSCP-FHT-Z0-SL-DR-H-00012 P04 – Stopping-up Plan) submitted with it are included at **APPENDIX DC-SUO 2**. Section 247 permits the making of an order for the stopping up of a highway necessary to enable development to be carried out in accordance with a valid planning permission. A conflict between the planning permission and a public right of way is essential for the grant of a stopping up order. The highway itself does not need to be obstructed by a physical development, a change of use of the land can be sufficient, provided the change of use requires the highway to be closed. Extracts from S247 of the Town and Country Planning Act 1990 are provided below for reference:-

247 Highways affected by development: orders by Secretary of State.

(1) The Secretary of State may by order authorise the stopping up or diversion of any highway outside Greater London if he is satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III or section 293A, or

(b) by a government department.

(2) Such an order may make such provision as appears to the Secretary of State to be necessary or expedient for the provision or improvement of any other highway outside Greater London.

(3) An order under subsection (1) or (2A) may direct—

(a) That any highway provided or improved by virtue of it shall for the purposes of the Highways Act 1980 be a highway maintainable at the public expense;

(b) That the Secretary of State, a strategic highways company, or any county council, county borough council, metropolitan district council or London borough council specified in the order or, if it is so specified, the Common Council of the City of London, shall be the highway authority for that highway;

(c) In the case of a highway for which the Secretary of State or a strategic highways company is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Highways Act 1980.

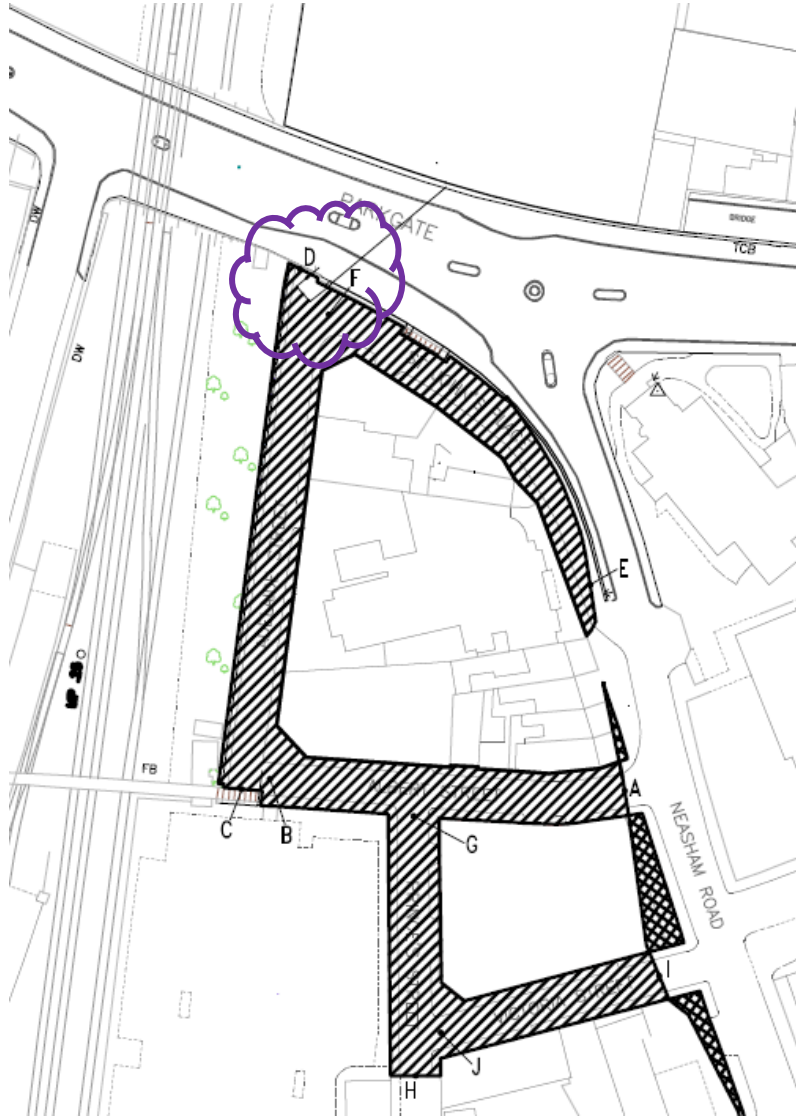
(4) An order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State or the council of the London borough to be necessary or expedient, including in particular—

(b) Provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates.

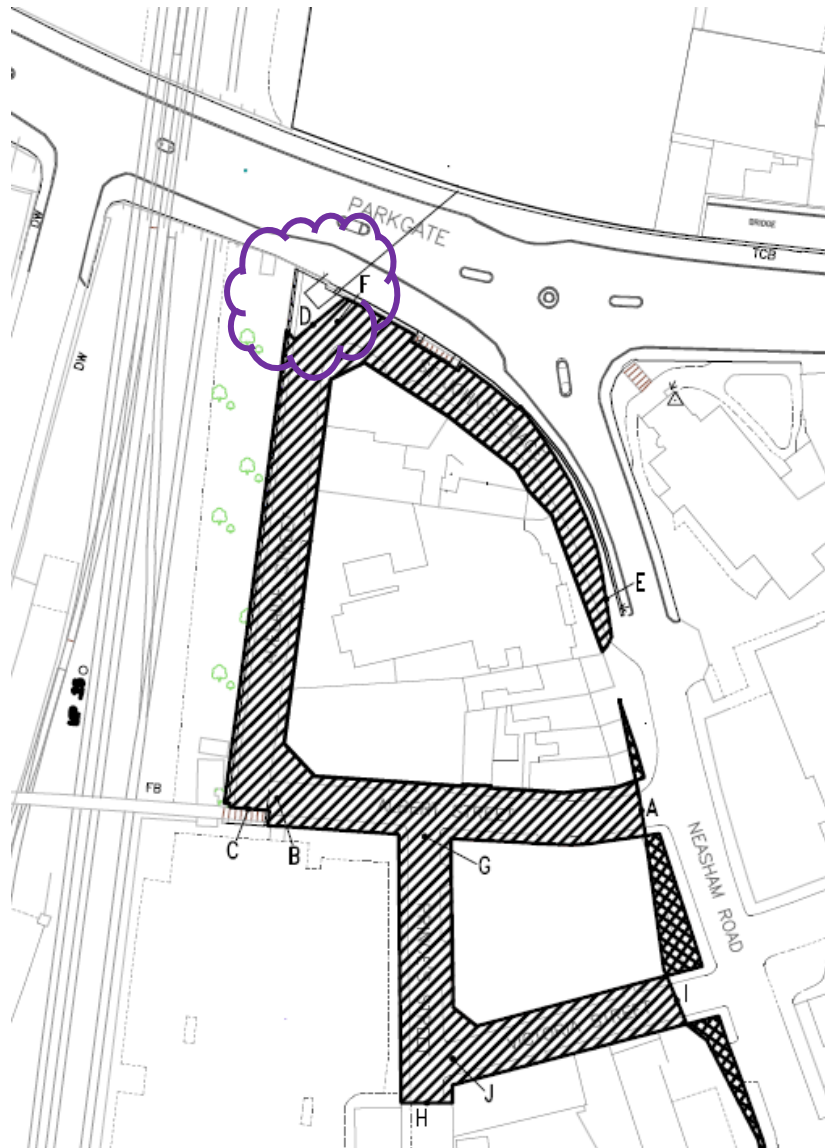
1.6 Briefly, and with reference to the plan (SGMSCP-FHT-Z0-SL-DR-H-00005 P06 **Appendix DC- SUO 6**), it can be seen that Albert Street lays under the proposed pedestrian and cycle access between Neasham Road and the new station entrance; Adelaide Street lays on the western edge of the public realm space which includes new pedestrian and cycle links to the Parkgate Bridge; St John's Place lays on the eastern edge of the public realm space adjacent to Neasham Road / Parkgate which includes new pedestrian and cycle links to the Parkgate Bridge, the existing steps to Parkgate and widening of the footway to 3m that flanks the western side of Neasham Road: Victoria Street lays under the new MSCP building and Prince's Street lays in part under the MSCP build and in part under the station entrance building. Part of Garbutt Square (eastern end) from its junction with Neasham Road is retained with the western end being stopped-up. Garbutt Square is realigned to form the vehicular entry/exit to the MSCP building. Further details are provided at Section 4 of my Evidence.

1.7 A copy of the notice, draft order and plan is included in **APPENDIX DC-SUO 3**. The draft Order was published on the 8th October 2021 in the local press and on site. The draft Order and plan were available for inspection during normal opening hours at Dolphin Centre Leisure Centre, Horse Market, Darlington, DL1 5RP in the period of 28 days commencing on 8 October 2021. The notice indicated that objections should made to the National Transport Casework Team (NTCT) by midnight 5th November 2021.

- 1.8 It should be noted that a revised drawing SGMSCP-FHT-Z0-SL-DR-H-00012 P05 – Stopping-Up Plan included in **Appendix DC- SUO 6** was prepared after submission of the S247 application following minor amendments around the end of Parkgate bridge and depicting the area of land to be retained as highway maintainable at public expense. These revisions affect the length and area at the northern end of Adelaide Street that would be stopped-up with the area for stopping up reduced. The revised coordinates for point D, are E: 429551 N: 514302. With a max length of 93m. Extract 1, overleaf, from drawing SGMSCP-FHT-Z0-SL-DR-H-00012 P04 – Stopping-Up Plan shows the area of the drawing affected by the revised plan and highlighted with a purple coloured ‘cloud symbol’. Extract 2, overleaf on page 12, from drawing SGMSCP-FHT-Z0-SL-DR-H-00012 P05 shows the area of the drawing which was revised also highlighted with a purple coloured ‘cloud symbol’ for comparison.



Extract 1: From Drawing SGMSCP-FHT-Z0-SL-DR-H-00012 P04 – Stopping-Up Plan



Extract 2: From Drawing SGMSCP-FHT-Z0-SL-DR-H-00012 P05 – Stopping-up Plan

- 1.9 In summary the S247 Application encompasses a number of streets in whole or in part that are highway maintainable at public expense including Albert Street, Adelaide Street, St John's Place, Victoria Street, Prince's Street together with part of Garbutt Square and Neasham Road on the eastern side Darlington Station Gateway.

-
- 1.10 The purpose of the proposed stopping up and creation of new highway is to facilitate the implementation of planning permission consisting of the new Multi Storey Car Park (MSCP), Public Realm Works and new station entrance and concourse.
- 1.11 Planning permission for the Darlington Station MSCP scheme and Public Realm works on the east side of the station has been granted under planning reference 21/00688/DC with a copy included in **Appendix DC- SUO 7** of my Evidence. The planning application was received by the Council on the 9 June 2021 and planning permission was consented on the 29th September 2021. A copy of the general site layout plan is included as Statement of Case document SD13.
- 1.12 A Compulsory Purchase Order known as The Darlington Borough Council (Darlington Station Gateway) Compulsory Purchase Order 2021 has been prepared to acquire land comprising the planning application land and is the subject of a Public Inquiry under PINS Ref APP/PCU/CPOP/N1350/3271399 set to run for 4 days commencing on the 18th January 2022.
- 1.13 Objections have been made to the S247 Application (which is conjoined with the CPO Inquiry) and these will be heard by the Inspector as part of that Inquiry. A copy of the three objections is included at **Appendix DC-SUO 4** and a copy of the Inquiry Notice and letter dated 1 December 2021 are included at **Appendix DC-SUO 5**
- 1.14 This Proof of Evidence explains why the stopping up is necessary to enable the planning permission to be implemented by describing the streets and how they relate to the development authorised by the planning permission, and then describes the proposed highway to be created as part of improvements along Neasham Road which is adjacent to the planning application site.

2 THE SITE AND CURRENT HIGHWAYS TO BE STOPPED-UP

The Existing Land and Access Arrangements

- 2.1 The development authorised by the planning permission is on land on the east side of the station and extends to approximately 2.1ha and is in part owned by Darlington Borough Council and Network Rail together with several other plot owners and their tenants/occupiers. The Darlington Borough Council (Darlington Station Gateway) Compulsory Purchase Order 2021 CPO boundary and individual plots being acquired together with an overlay of the proposals are shown on the Station Improvements Block Plan (SD22 - Station Improvements, CPO plot Overlay) comprising part of the Statement of Case documents.
- 2.2 The planning permission encompasses a number of streets in whole or in part that are highway maintainable at public expense. The plan reference SGMSCP-FHT-Z0-SL-DR-H-00012 P04 – Stopping-Up Plan (**SUO2** Stopping-Up Plan) shows the extents of the highway maintainable at public expense to be stopped up and areas of new highway being created on the western side of Neasham Road. There is a revised version of this plan SGMSCP-FHT-Z0-SL-DR-H-00012 P05 – Stopping-up Plan included in **Appendix DC- SUO 6** of my Evidence which was submitted to the NTCT on the 30 November 2021 as part of the S247 application. The difference between the two drawings is highlighted in Extracts 1 and 2 of my Evidence.
- 2.3 A brief description of the existing streets / highways is provided in section 2.2 of the Transport Assessment (SD12 Transport Assessment part 1 and SD12a Transport Assessment part 2) and the description of those affected by the proposed stopping up is reproduced below for reference:

Albert Street / Victoria Street

These side streets are both street-lit and subject to a speed limit of 20mph and have a carriageway width of approximately 5.5m with footways provided on both sides of the carriageway. The majority of the two roads have Traffic Regulation

Orders in the form of double yellow lines. Victoria Street provides two parking laybys and Albert Street provides access to Darlington Station long stay car park (43 spaces) both roads join Neasham Road to the east via priority junctions. At the junction of Albert Street and Adelaide Street there is an existing footbridge across the East Coast main line connecting to the top of the station approach ramp from Parkgate. This is provided with steps at both ends only. A 'bike channel' has been provided on the steps to assist cyclists using the bridge and is signed for use by cyclists and pedestrians.

Adelaide Street / St John's Place

These side streets are both street-lit and subject to a speed limit of 20mph and have a carriageway width of approximately 5.5m with footways provided on both side of the carriageway. However, St John's Place tapers down to approximately 3.0m where it joins Neasham Road at an acute angle. The two roads have Traffic Regulation Orders in the form of double yellow lines on both side of the carriageway and provide access to various commercial units and takeaways. Adelaide Street / St John's Place also provide access on foot and by cycle to a recently constructed bridge (pedestrian / cycle) across Parkgate with signage between the station and the Central Park area (Darlington Campus and Haughton cycle route) to the north. A wide foot / cycleway route is provided on the western side of Adelaide Street from the Parkgate bridge to the existing footbridge across the railway.

Prince's Streets

Prince's Street joins between Albert Street and Victoria Street and is subject to a speed limit of 20mph and has a carriageway width of approximately 6.1m with footways provided on both sides of the carriageway. The majority of the street has Traffic Regulation Orders in the form of double yellow lines but has a marked parking bay on the western side.

Garbutt Square

This is a short stretch of road which is street-lit and subject to a speed limit of 30mph and has a carriageway width of approximately 8.0m with footways provided on both side of the carriageway. Traffic Regulation Orders in the form of double yellow lines are also present on its northern flank along its entire length and around its southern radius. Garbutt Square currently provides access to Darlington Station car park and some commercial units, it joins Neasham Road to the east of the site via a priority junction.

3 OBJECTIONS TO THE STOPPING UP ORDER

3.1 Objections have been raised by two statutory service providers which relate to services in the existing highways effected by the stopping up proposals and a third party, the owner of Plot 16 on the CPO plan (SUA10 of the S247 Statement of Case) which are summarised below:-

- Virgin Media
- Northern Gas Networks
- Marsh Howe Limited (Plot 16)

3.2 Plot 16 from the CPO plan (SUA10) can be seen on **Extract 3** below for reference.

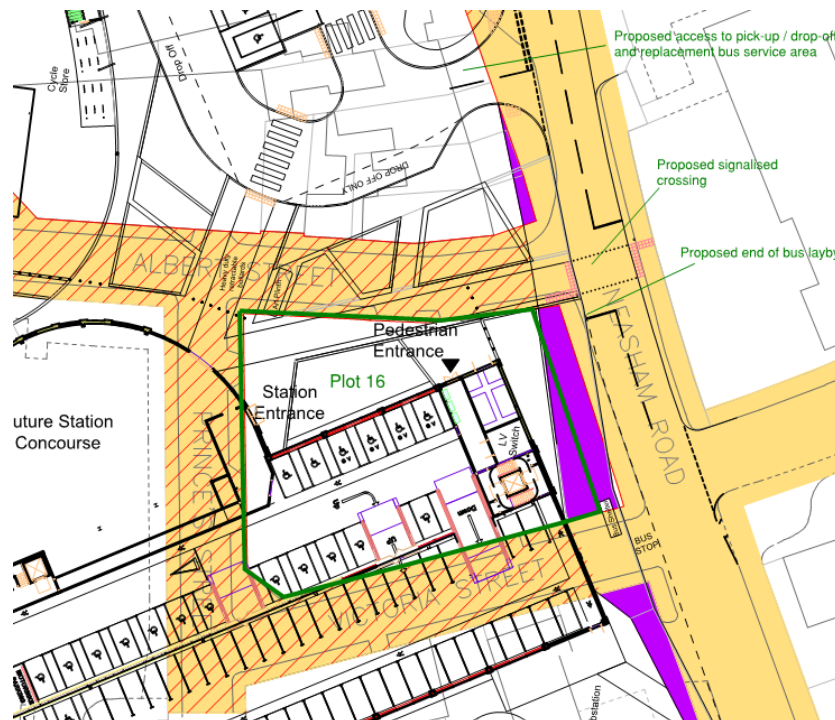


Extract 3 From CPO Plan (SUA10) showing Plot 16

3.3 Copies of the Virgin Media and Northern Gas Networks service record plans are included in **Appendix DC-SUO 4**.

3.4 With reference to the Virgin Media plan it appears that there is a cable along St John's Place wrapping round in to Adelaide St, one part way along Albert Street and one along Garbutt Square. Some of these will become redundant when the CPO properties have been acquired and demolished. Some of their apparatus is in Neasham Road where some highway works are proposed but Neasham Road is not affected by the S247 stopping-up proposals.

- 3.5 With reference to the Northern Gas Networks plan it appears that there is a pipe on St John's Place in front of the East End Working Men's Club, one part way along Victoria Street and one along Garbutt Square. Some of these will become redundant when the CPO properties have been acquired and the planning permission implemented. Most of their apparatus is in Neasham Road where some highway works are proposed but Neasham Road is not affected by the S247 stopping-up proposals.
- 3.6 It is understood that negotiations would be required with many service providers to either protect or divert any services still required or otherwise have all connections that serve property on the CPO Land removed and made safe so the works can be implemented.
- 3.7 The approximate location of Plot 16 (green outline) in relation to the Darlington Station Gateway East proposals, existing highway to be stopped up (red hatching) and highway to be created (purple shading) is shown indicatively on Extract 4 below:-



Extract 4 from drawing SGMSCP-FHT-Z0-SL-DR-H-00005 P06 showing Plot 16

- 3.8 Existing pedestrian and vehicular access to Plot 16 (Marsh Howe land) is available from Albert Street and a pedestrian access from Prince's Street. There is no direct vehicular access on to the land from Neasham Road, Victoria Street and Prince's Street. The land is presently used as a 43 space car park and Darlington Borough Council are endeavouring to acquire the land by agreement but a valuation for the property has not been agreed with the owner. The owner of Plot 16 has not formally submitted an objection to the CPO Scheme.
- 3.9 The objection from Marsh Howe Ltd states:-
- "Regarding the above notice we object to this on the grounds that if we have not concluded the purchase of our site, this would be to the detriment of the operation of our pay and display car park, and would effectively close what is an existing car park".*
- 3.10 It is understood that the Council would not stop-up any highways until it implements the planning permission and it would not implement the planning permission until it has acquired all land (that is, including the objector's interest) necessary for the development to proceed and taken permanent possession of the land either by agreement or under the CPO procedures. Therefore, the Council considers that the objector should be satisfied with the Council's undertaking as stated in the foregoing. Once the land has been acquired and permanent possession taken of the land, the objector (Marsh Howe Ltd), would no longer have any interest in the land and therefore would not require access to the land.

4 THE RELATIONSHIP OF THE HIGHWAY TO BE STOPPED-UP TO THE PROPOSED DEVELOPMENT

- 4.1 The proposed Darlington Station MSCP scheme and Public Realm works on the east side of the station are described in section 4.1 of the Transport Assessment (SD12 Transport Assessment part 1) from a highway and transportation perspective. Drawing SD23 Gateway East Proposed Access Arrangements, (ref SGMSCP-FHT-ZO-SL- DR-H- 00007 Rev P04 - Proposed Access Arrangements Option 2:) shows the main pedestrian and cycle routes to access the proposals together with vehicular access via Garbutt Square to the MSCP building and from Neasham Road for the pick-up and drop-off area. The pick-up and drop-off area would also be used to accommodate replacement bus services during disruption to train services. At these times the pick-up / drop-off area would be closed to passengers and the bus replacement services managed for the benefit of passengers and the public.
- 4.2 Vehicular access (entry / exit) to the MSCP building will be from Neasham Road via the existing Garbutt Square junction (albeit with some improvements) and a new priority vehicular access point to the pick-up / drop-off area from Neasham Road. The creation of the space for the MSCP building, station facilities and station pick-up / drop-off area will require acquisition of land (described in the CPO). The proposed MSCP and Public Realm scheme will necessitate the Stopping-Up of publicly maintainable highways shown on drawing SGMSCP-FHT-ZO-SL-DR-H-00012 P05 – Stopping-Up Plan included in **Appendix DC- SUO 6**. New areas of highway are being created in association with the proposed access to the drop-off/pick-up area from Neasham Road and the proposed bus layby to the north of Garbutt Square.
- 4.3 Furthermore, to accommodate the MSCP building, station facilities and station pick-up / drop-off area there will be a requirement for improvements along Neasham Road. The following improvements are proposed:-
- Provision of a new bus layby (north bound) on Neasham Road,

- Relocation of an existing signalised pedestrian crossing together with local widening of the footway on the east side of Neasham Road,
- Amendments to part of an existing retaining wall on the west side of Neasham Road to create a 3m wide footway and adjustment of the kerb line as it approaches the Yarm Road roundabout,
- Implementation of traffic management measures (waiting restrictions and parking bays),
- Closure of existing side streets and old property access points on the west side of Neasham Road,
- The introduction of a new access for the pick-up / drop-off area, and
- Improvements to Garbutt Square to facilitate access to the new MSCP including its junction with Neasham Road.

4.4 The plan (SGMSCP-FHT-Z0-SL-DR-H-00005 P06 – Areas of Highway to be Stopped-Up and Created **Appendix DC- SUO 6**) shows the proposed layout together with the extents of the highway maintainable at public expense to be stopped up and areas of new highway being created on the western side of Neasham Road. With reference to the plan it can be seen that Albert Street lays under the proposed pedestrian and cycle access between Neasham Road and the to the new station entrance; Adelaide Street lays on the western edge of the public realm space which includes new pedestrian and cycle links to the Parkgate Bridge; St John's Place lays on the eastern edge of the public realm space adjacent to Neasham Road / Parkgate which includes new pedestrian and cycle links to the Parkgate bridge, the existing steps to Parkgate and widening of the footway to 3m that flanks the western side of Neasham Road; Victoria Street lays under the new MSCP building and Prince's Street lays in part under the MSCP build and in part under the station entrance building. Part of Garbutt Square (eastern end) from its junction with Neasham Road is retained with the western end being stopped-up. Garbutt Square is realigned to form the vehicular entry/exit to the MSCP building.

- 4.5 New areas of highway are being created in association with the proposed access to the drop-off/pick-up area from Neasham Road and the proposed bus layby to the north of Garbutt Square. These are identified on SGMSCP-FHT-Z0-SL-DR-H-00012 P05 – Stopping-Up Plan included in **Appendix DC- SUO 6**.

5 SUMMARY AND CONCLUSIONS

- 5.1 It has been demonstrated in the foregoing sections to this Evidence, that it is necessary to stop up highways that are the subject of the draft Order to enable the construction of the new Darlington Station MSCP scheme and Public Realm works which physically affects the highways. The areas to be stopped up included within the S247 application are necessary to allow the proposed development to proceed because the areas fall within the proposed footprint of the new buildings and public realm shown on the plans that form part of the planning application. Furthermore, new highway will be created as part of the scheme.
- 5.2 It is considered that the interests of all objectors to the draft Order can be reasonably protected either, in the case of statutory undertakers, by the provision of alternative rights and arrangements, or otherwise by acquisition of those interests. The Inspector is therefore respectfully requested to confirm the making of the Order for the stopping up of the highways affected by the implementation of the planning permission.