



# Donnington and Muxton Neighbourhood Development Plan

## **Regulation 16 Consultation**

October 2021



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# 1 INTRODUCTION

## 1.1 Context

1.1.1 These representations provide Gladman’s response to the Middleton St George Neighbourhood Plan (MSGNP) under Regulation 16 of the Neighbourhood Plan (General) Regulations 2012.

1.1.2 Gladman Developments Ltd specialise in the promotion of strategic land for residential development and associated community infrastructure and have considerable experience in contributing to the Development Plan preparation process having made representations on numerous planning documents throughout the UK alongside participating in many Local Plan and Neighbourhood Plan examinations.

1.1.3 Through these representations, Gladman provides an analysis of the MSGNP, and the policy choices promoted within the draft Plan. Comments made by Gladman through these representations are provided in consideration of the MSGNP’s suite of policies and its ability to fulfil the Neighbourhood Plan Basic Conditions as established by paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended) and supported by the Neighbourhood Plan chapter of the PPG.

## 2 LEGAL REQUIREMENTS, NATIONAL POLICY & GUIDANCE

### 2.1 Legal Requirements

2.1.1 Before a neighbourhood plan can proceed to referendum it must be tested against a set of basic conditions set out in paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). The basic conditions that the MSGNP must meet are as follows:

*“(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.*

*(d) The making of the order contributes to the achievement of sustainable development.*

*(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).*

*(f) The making of the order does not breach, and is otherwise compatible with, EU obligations.*

*(g) Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).”*

### 2.2 National Planning Policy Framework

2.2.1 The National Planning Policy Framework (the Framework) sets out the Government’s planning policies for England and how these are expected to be applied. In doing so it sets out the requirements for the preparation of neighbourhood plans to be in conformity with the strategic priorities for the wider area and the role they play in delivering sustainable development to meet development needs.

2.2.2 At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread through plan-making and decision-taking. This means that plan makers should positively seek opportunities to meet the development needs of their area and Local Plans should meet objectively assessed

housing needs, with sufficient flexibility to adapt to rapid change. This requirement is applicable to neighbourhood plans.

- 2.2.3 The recent Planning Practice Guidance (PPG) updates make clear that neighbourhood plans should conform to national policy requirements and take account of the most up-to-date evidence. This is so that Middleton St George Parish council can assist Darlington Borough Council (DBC) in delivering sustainable development and be in accordance with basic condition (d).
- 2.2.4 The application of the presumption in favour of sustainable development will have implications for how communities engage with neighbourhood planning. Paragraph 13 of the Framework makes clear that Qualifying Bodies preparing neighbourhood plans should develop plans that support strategic development needs set out in Local Plans, including policies for housing development and plan positively to support local development.
- 2.2.5 Paragraph 15 further makes clear that neighbourhood plans should set out a succinct and positive vision for the future of the area. A neighbourhood plan should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. Neighbourhood plans should seek to proactively drive and support sustainable economic development to deliver the homes, jobs and thriving local places that the country needs, whilst responding positively to the wider opportunities for growth.
- 2.2.6 Paragraph 29 of the Framework makes clear that a neighbourhood plan must be aligned with the strategic needs and priorities of the wider area and plan positively to support the delivery of sustainable growth opportunities.

## 2.3 National Planning Policy Consultations

- 2.3.1 On 6th August 2020, Government published the Planning for the Future White Paper setting out proposals for how it is seeking to 'radically reform' the planning system. The proposals are seeking to streamline and modernise the planning process.

2.3.2 In her speech at the State Opening of Parliament in May 2021, the Queen announced that the Government will introduce “laws to modernise the planning system, so that more homes can be built, will be brought forward...”. Notes accompanying the speech confirm that a future Planning Bill will seek to create a simpler, faster, and more modern planning system that ensures homes and infrastructure can be delivered more quickly across England. Timings on the publication of the draft Planning Bill remain uncertain, however, subject to the outcomes of this process, the Government has signalled its intent to make rapid progress toward this new planning system through the swift introduction of new legislation to implement the changes.

The Parish Council should be mindful of these changes and the potential impact to the MSGNP and the need to undertake a review of the neighbourhood plan following the Plan’s adoption.

## 3 RELATIONSHIP TO LOCAL PLANS

### 3.1 Adopted Development Plan

- 3.1.1 To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, neighbourhood plans should be prepared to conform to the strategic policy requirements set out in the adopted Development Plan.
- 3.1.2 Middleton St George falls within the administrative boundary of Darlington Borough Council (DBC). DBC formally adopted its Core Strategy Development Plan Document (DPD) on 6 May 2011. The Core Strategy DPD sets out how the Borough will develop over the 15-year period 2011-2026 and forms part of the Local Development Framework for the Borough. The policies in the Core Strategy replaced several policies in the Borough of Darlington Local Plan (1997) that were 'saved' under the provisions of Section 38 of the Planning and Compulsory Purchase Act 2004.
- 3.1.3 Darlington Borough Council are progressing towards a new Darlington Borough Local Plan (DBLP) which will guide development to 2036. Examination in Public has now concluded with the Council currently consulting on Main Modifications to the Local Plan.
- 3.1.4 The Middleton St George Neighbourhood Plan should be sufficiently aligned and drafted with flexibility to ensure that conflicts are minimised with the strategic policies of the emerging Local Plan, to avoid risk of the MSGNP failing at examination. Additionally, this will ensure that the MSGNP is capable of being effective over the duration of its plan period and not ultimately superseded by s38(5) of the Planning and Compulsory Purchase Act 2004.



## 4 MIDDLETON ST GEORGE NEIGHBOURHOOD PLAN

4.1.1 This section is in response to the DMNP consultation document and its supporting evidence base.

### 4.2 Policy MSG2: Design

4.2.1 This policy sets out a range of design principles which development proposals should seek to meet. While the government has shown support for development to incorporate good design principles, Gladman would note that the Framework also states:

***. To provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. Design guides and codes provide a local framework for creating beautiful and distinctive places with a consistent and high-quality standard of design. Their geographic coverage, level of detail and degree of prescription should be tailored to the circumstances and scale of change in each place and should allow a suitable degree of variety.”<sup>1</sup>***

4.2.2 Whilst Gladman recognise the importance of high-quality design, in accordance with the requirements of the Framework, design principles should be set out through appropriate frameworks and design guides rather than an overly prescriptive list within the Plan.

4.2.3 Policies require some flexibility in order for schemes to respond to site specifics and the character of the local area. In essence, there will not be a ‘one size fits all’ solution in relation to design and sites should be considered on a site-by-site basis with consideration given to various design principles.

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<sup>1</sup> NPPF (2021) – Paragraph 128

### 4.3 Policy MSG3: Embedding energy efficiency and renewable energy

4.3.1 The Qualifying Body should review this policy in detail to make sure its requirements are not already covered by other legislation such as Building Regulations and/or policies already in the Local Plan.

4.3.2 In many instances there are no 'baseline' figures to measure against in this policy and as such, and noted above, much of this is already covered in Building Regulations requirements, principally in Part G and Part L.

### 4.4 Policy MSG4: General location of new development

4.4.1 Policy MSG4 supports the focus of new development within the settlement boundaries of Middleton St George, Middleton One Row and Oak Tree. Several scenarios are listed whereby new development will be supported outside the defined settlement boundaries; however, this fails to account for new major residential developments.

4.4.2 Gladman object to the wording of this policy and use of settlement boundaries as an appropriate planning tool where they would preclude otherwise sustainable development from coming forward. Indeed, the use of development limits which arbitrarily restrict suitable development on the edge of settlements does not accord with the positive approach to growth required by the Framework which is clear that development which is considered sustainable should go ahead without delay in accordance with the presumption in favour of sustainable development. As a result, this approach is also contrary to basic condition (a).

4.4.3 Gladman contend that this policy should be worded more flexibly in accordance with Paragraphs 11 and 16(b) of the NPPF (2021) and the requirement for policies to be sufficiently flexible to adapt to rapid change and prepared positively.

4.4.4 It is suggested that Policy MSG4 should support development proposals adjacent to the settlement boundaries provided that any adverse impacts do not significantly and demonstrably outweigh the benefits of development alongside according with other policies of the MSGNP and other development plan policies.

4.4.5 Indeed, a flexible policy approach for developments adjacent to a settlement boundary was taken in the examination of the Godmanchester Neighbourhood Plan. Paragraph 4.12 of the Examiner's Report (August 2017) states<sup>2</sup>:

***"...Policy GMC1 should be modified to state that "Development ...shall be focused within or adjoining the settlement boundary as identified in the plan." It should be made clear that any new development should be either infill or of a minor or moderate scale, so that the local distinctiveness of the settlement is not compromised. PM2 should be made to achieve this flexibility and ensure regard is had to the NPPF and the promotion of sustainable development. PM2 is also needed to ensure that the GNP will be in general conformity with the aims for new housing development in the Core Strategy and align with similar aims in the emerging Local Plan."***

4.4.6 Gladman would suggest this policy is going to prevent sustainable development from coming forward and not allow appropriate flexibility to ensure an appropriate level of housing is delivered for the neighbourhood plan area in supporting the (emerging) Darlington Borough Local Plan.

## 4.5 Policy MSG5: Green Infrastructure

4.5.1 Gladman support the delivery and retention of Green Infrastructure. New developments are well placed to provide new and improved areas of Green Infrastructure. This should be recognised in the policy and supported through the other policies in the Neighbourhood Plan.

4.5.2 Gladman further remind the Qualifying Body that it is not the responsibility of the Neighbourhood Plan to determine planning applications and recommend that the Policy Wording is amended to state:

***"Development proposals which provide the following measures will be supported..."***

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<sup>2</sup> <https://www.huntingdonshire.gov.uk/media/2780/godmanchester-neighbourhood-plan-examiner-final-report.pdf>

## 4.6 Policy MSG6: Green Wedge

4.6.1 The emerging Darlington Borough Local Plan, which is currently consulting on Main Modifications following Examination in Public, does not propose a strategic settlement gap for Middleton St George.

4.6.2 As highlighted in the PPG, a draft Neighbourhood Plan must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic conditions<sup>3</sup>. It is also clear the above Policy is drafted to avoid coalescence between Middleton St George and Middleton One Row, Gladman consider that this is a strategic issue that should only be considered through the Local Plan process

4.6.3 Furthermore, if the Neighbourhood Plan is to proceed with Policy MSG6 then it must be supported by robust evidence, as set out in the PPG, allowing for flexibility to assess any harm to the visual and functional separation of settlements against the benefits of a development proposal:

***“A wide range of settlements can play a role in delivering sustainable development in rural areas, so blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness.”<sup>4</sup>***

4.6.4 The Council have referred to the 2010 Middleton One Row Conservation Area Character Appraisal, before listing two planning applications as evidence to justify Policy MSG6. Firstly, Gladman contend that the Conservation Area Character Appraisal is dated and does not provide robust or up-to-date evidence in which to form the basis of a policy. Furthermore, the justification listed within this document propose the area provides ‘key views’, yet Gladman propose that this is a subjective issue and is little beyond a ‘nice view of the countryside’.

4.6.5 Secondly, Gladman refer to the two planning applications; 18/01108/FUL and 18/00275/OUT, detailed by the Parish Council as justification for the Policy. While the Inspector for the Appeal relating to Land east of Middleton Lane, Middleton Lane

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<sup>3</sup> Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20190509

<sup>4</sup> Planning Practice Guidance: Paragraph: 009 Reference ID: 67-009-20190722

highlighted the local character and appearance of the local areas as attracting weight within the decision, these were not determinative issues when regarding plan making.

- 4.6.6 While the Council have presented analysis behind Policy MSG6, Gladman contend that the Parish Council have not provided robust evidence supporting the approach taken. Indeed, the policy applies a blanket approach to restricting housing development where a development proposal may be designed in a manner that is able to mitigate against harm to the character and local appearance.

## 4.7 Policy MSG8: Local Green Space

- 4.7.1 Policy MSG8 seeks to designate 17 areas as Local Green Spaces (LGS) and therefore protecting them from development due to their local significance or community value.

- 4.7.2 In order to designate land as LGS the Parish Council must be able to demonstrate robust evidence to meet national policy requirements as set out in the Framework. The Framework makes clear at §101 that the role of local communities seeking to designate land as LGS should be consistent with the local planning of sustainable development

***“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.”***

- 4.7.3 Further guidance is provided at §102 of the Framework which sets out three tests that must be met for the designation LGS, stating:

***The Local Green Space designation should only be used where the green space is:***

***a) in reasonably close proximity to the community it serves;***

***b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance,***

***recreational value (including as a playing field), tranquillity or richness of its wildlife; and***

***c) local in character and is not an extensive tract of land.***

- 4.7.4 Gladman contend that the Local Green Space and Protected Open Space – Background Paper does not provide proportionate or robust evidence as required by the PPG to designate such land. Failure to demonstrate how each designation meets the tests set out in §102 is contrary to the requirements of national policy and guidance and is therefore inconsistent with basic condition (a).
- 4.7.5 The Parish Council is aware that Gladman Developments Ltd. has interests in the site proposed (in this Regulation 16 plan) as of ‘LGS11 The Fields Behind The Greenway and north of the railway line’.
- 4.7.6 The assessment of LGS 11 is located on page 48 of the ‘Local Green Space and Protected Open Space Background Paper’ (January 2021). It is considered that the context of the site is ignored during the assessment of the site, particularly when at the time of the assessment there was a planning application awaiting determination and that the site was previously proposed for allocation within the Darlington Local Plan. Indeed, evidence supporting the designation of ‘LGS11 The Fields Behind The Greenway and north of the railway line’ in the Background Paper provides limited justification for designating the site as LGS. Part 1 of the Background Paper states that the site is of particular local significance as it is ‘well used by the local community’ and has ‘a number of public rights of way cross the site linking to the wider countryside’
- 4.7.7 It is acknowledged that the site has public rights of way (PRoW) crossing it. However, in the illustrative Development Framework Plan submitted in support of application 19/00231/OUT (see Appendix 1) demonstrates that all PRoWs can be accommodated on-site without interruption or diversion. No further supporting evidence or documents demonstrating how the land is used by the community has been provided.

- 4.7.8 Simply because a site has PRoW(s) crossing it or within its 'boundaries', does not mean it meets the requirements for a LGS and nor that development should be refused for this reason. Indeed, on the site immediately north of (proposed) LGS11, there is an outline planning permission for 198 dwellings (15/00976/OUT) and this site has the same (continuation) footpaths crossing it as on LGS11.
- 4.7.9 Additionally, the NPPF makes it clear that LGS designations should not be an extensive tract of land<sup>5</sup>. While there is no set figure for what constitutes an extensive tract of land there are numerous Examiner's reports from across the country which hold a consensus that anything greater than 2 hectares fails this test.
- 4.7.10 The Examiner of Backwell Neighbourhood Plan found two proposed LGSs at Farleigh Fields and Moor Lane Field to constitute extensive tracts of land given their respective sizes of 19 and 32 hectares. Accordingly, the Examiner concluded that their proposed LGS designations had failed to show regard to national planning policy and required their removal.
- 4.7.11 Indeed, the following Examiner's Reports make similar points:
- The Oakley and Deane NP (Examiner's Report dated December 2015) – the Examiner concluded that a proposed LGS designation on a site of just over 5 hectares to be contrary to national planning policy.
  - The Wivelsfield NP (Examiner's Report dated August 2016) – the Examiner concluded that proposed LGS allocations on sites of 3.6 hectares and 8.6 hectares. The Inspector pointed to PPG paragraph 13 which listed "sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis" as potential LGS allocations. The Inspector stated the areas suggested are notably smaller than the fields promoted in the NP.

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<sup>5</sup> NPPF (2021) Paragraph 102

- The Faringdon NP (Examiner Report dated August 2016) – the Examiner concluded that Humpty Hill at 5.6 hectares on the edge of the town was an extensive tract of land and it was subsequently deleted as a LGS allocation

4.7.12 The land proposed to be designated as LGS11 amounts to an overall size of approximately 15 acres, an area significantly greater than figures referred to previously and clearly an extensive tract of land. This proposed designation also would apply a blanket designation of open countryside adjacent to the existing settlement boundary and an approved residential application (15/00976/OUT).

4.7.13 This is compounded by the fact that the site (Reference: 375 'Land south of High Stell') was considered suitable, available and achievable for residential development in the Darlington Borough Council Housing and Employment Land Availability Assessment (HELAA 2017) published in 2018.

4.7.14 Additionally, in the Regulation 18 Darlington Local Plan (June 2018) the site was proposed for residential development with an indicative yield of 100 dwellings.

4.7.15 While, the site allocation is no longer included within the Local Plan, there is no further evidence which changes the assessment of the site and therefore can still be considered suitable for residential development. Indeed, the emerging Local Plan process has not considered, nor assessed the site for LGS purposes further demonstrating inconsistencies with Basic Condition (e).

4.7.16 Furthermore, the Darlington Borough Council's Planning Policy Consultation Response stated that,

***"It is considered that residential development on this site would not have a significant impact on the character and appearance of the countryside."***<sup>6</sup>

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<sup>6</sup> 19/00231/OUT CONSULTATION RESPONSE - PLANNING POLICY OFFICER:

[https://publicaccess.darlington.gov.uk/online-applications/files/AE9DD1748D34B7C724834FF0086E00EA/19\\_00231\\_OUT-CONSULTATION\\_RESPONSE\\_-\\_PLANNING\\_POLICY\\_OFFICER-1596544.docx](https://publicaccess.darlington.gov.uk/online-applications/files/AE9DD1748D34B7C724834FF0086E00EA/19_00231_OUT-CONSULTATION_RESPONSE_-_PLANNING_POLICY_OFFICER-1596544.docx)



4.7.17 Finally, the Middleton St George Neighbourhood Plan: Settlement Boundary Background Paper states:

***“Previous parish council responses to the pending application for the development of site 375 illustrate that there are significant access and highway infrastructure capacity issues. The proposed access to the site is not within the same ownership and would only be able to be provided at this point if number 20A The Greenway was purchased and demolished. It is also considered that the proposed access route does not and could not meet the council’s highway standards in terms of width of road to be provided and the provision of the required footpaths. Traffic survey data illustrates that the development of the site could cause result in significant highway safety issues.”***

4.7.18 At the time of the assessment, which was published alongside the Regulation 14 consultation, Gladman’s planning application to Darlington Borough Council, registered under reference 19/00231/OUT, did not have any highways objections relating to highways infrastructure or capacity. It is considered that the Parish Council predetermined the outcome of the planning application and development management process.

4.7.19 The decision notice and delegated report highlight that the Tees Valley Highway Design Guidance specifies a carriageway width of 5.5m would be suitable to serve up to 300 dwellings. However, despite the existing internal highways of Grendon Gardens/The Greenway being only 5.4m it was considered that this makes little material difference in terms of highways safety. This contradicts comments highlighted in the Middleton St George Neighbourhood Plan: Settlement Boundary Background Paper.

4.7.20 Therefore, Gladman assert that no robust or proportionate evidence has been provided alongside the draft Neighbourhood Plan which justifies the designation of LGS11 or any of the proposed LGS designations. Middleton St. George Neighbourhood Plan is consequently inconsistent with basic condition (a).

## 4.8 Policy MSG10: Heritage Assets

4.8.1 Gladman highlight that it is the sole responsibility of the Local Planning Authority to determine planning applications. Therefore, it is advised that the policy is deleted or that policy wording is amended to provide more suitable terminology.

## 4.9 Policy MSG11: Housing Mix

4.9.1 Gladman are supportive of the flexibility contained within Policy MSG11 to ensure that the policy can remain up to date throughout the plan period.

4.9.2 Policy MSG11 has regard to the Middleton St George Housing Needs Assessment (2020) and the Darlington Strategic Housing Market Assessment (2017) and any subsequent updates. However, Gladman recommend that reference is also given to the adopted development plan.

## 4.10 Policy MSG12: Affordable Housing

4.10.1 The above attempts to support the provision of affordable housing in Middleton St George and states that,

***“All new residential development that contain ten or more open market residential dwellings or are on sites of 0.5 hectares or more, will be required to contribute to the provision of affordable housing.”***

4.10.2 Gladman assert that as currently drafted the policy is more restrictive than the emerging Darlington Borough Local Plan which concluded the Regulation 19 consultation in September 2020. Policy H5 of the Darlington Local Plan Regulation 19 version states, ***“...the provision of affordable housing will be expected in residential development schemes of 10 or more dwellings...”***

4.10.3 Gladman recommend that the policies within the MSGNP are sufficiently aligned with the strategic policies of the emerging Local Plan, to avoid risk of the MSGNP failing at examination or ultimately superseded by s38(5) of the Planning and Compulsory Purchase Act 2004.



## 5 CONCLUSIONS

### 5.1 Summary

5.1.1 Gladman welcomes the opportunity to comment on the Middleton St George Neighbourhood Plan Regulation 16 consultation. These representations have been drafted with reference to the revised National Planning Policy Framework (NPPF2019) and the associated updates that were made to Planning Practice Guidance.

5.1.2 Gladman have provided comments on a number of the issues that have been identified in the Council's consultation material and recommend that the matters raised are carefully explored during the process of undertaking the Neighbourhood Plan development. It is considered that the Steering Group have failed to acknowledge the concerns and issues highlighted through previous consultation periods and that at present the Middleton St George Neighbourhood Plan Regulation 16 version fails to meet the basic conditions. Gladman have highlighted a number of concerns within this representation which must be considered and addressed prior to the Plan being submitted to Darlington Borough Council ahead of Independent Examination.

5.1.3 We hope you have found these representations informative and useful towards the preparation of the Neighbourhood Plan and Gladman welcome any future engagement with the Council to discuss the considerations within forwarded documents.

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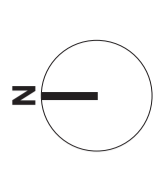
## APPENDICES

Appendix 1: Development Framework Plan for application 19/00231/OUT

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	Site Boundary	6.14 Ha
	Residential Area Up to 160 Units @ 37 DPH	4.34 Ha
	Green Infrastructure	1.80 Ha
	Proposed Indicative Primary Roads	
	Proposed Vehicular Access	
	Proposed Attenuation Basin (Location subject to engineers recommendation)	
	Proposed Play Area (LEAP with 20m stand off)	
	Proposed Structural Planting	
	Potential Acoustic Barrier	
	Existing Public Rights of Way	
	Existing Road Network	
	Existing Trees & Hedgerows	
	Conservation Area	
	Railway Line	
	Existing Residential Development	
	Existing Pond / Waterbody	
	Dinsdale Railway Station	
	Proposed Pumping Station	



Scale: 1:2500 @ A3

K:\8200\8242\LANDS\Plans\8242-L-03 DEVELOPMENT FRAMEWORK REV F.indd

Gladman Developments  
Land West of The Greenway  
Middleton St George

DEVELOPMENT FRAMEWORK

1:2500 @ A3  
16 November 2018 TCM / KMN  
8242-L-03 F

environmental assessment  
 masterplanning  
 urban design  
 landscape architecture  
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