

PLEASE NOTE START TIME

PLANNING COMMITTEE AGENDA



Wednesday 26th November 2008

at 1.00 pm

**in the Council Chamber
Civic Centre, Hartlepool**

MEMBERS OF PLANNING COMMITTEE:

Councillors Akers-Belcher, Allison, R Cook, S Cook, Fleet, Flintoff, Kaiser, Laffey, G Lilley, Morris, Payne, Plant, Richardson, Simmons, Sutheran and Wright

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To confirm the minutes of the meeting held on 29th October 2008

4. ITEMS REQUIRING DECISION

4.1 Planning Applications – *Assistant Director (Planning and Economic Development)*

1. H/2008/0552 Hartlepool College of Further Education, Stockton Street
2. H/2008/0953 Tesco, Burn Road
3. H/2008/0525 Able UK, Tees Road
4. H/2008/0495 Tees Bay Retail Park, Brenda Road
5. H/2008/0577 2 Delamere, Billingham
6. H/2008/0558 Ashfield Farm, Dalton Piercy Road
7. H/2008/0604 Dyke House Comprehensive School, Mapleton Road
8. H/2008/0616 132 Oxford Road
9. H/2008/0583 7B Hylton Road

4.2 Concurrent Public Path Extinguishment and Creation Orders – Hartlepool Public Footpath No. 19, Seaton Lane and Creation of Hartlepool Public Footpath No. 42 – *Director of Adult and Community Services*

PLEASE NOTE START TIME

- 4.3 Update on Current Complaints – *Assistant Director (Planning and Economic Development)*
- 4.4 Seaton Meadows Landfill Site – *Assistant Director (Planning and Economic Development)*
- 4.5 Appeal Ref APP/H0724/A/08/2079769 H/2007/0839 Change of use to a hot food takeaway, 60 Oxford Road, Hartlepool TS25 5SQ – *Assistant Director (Planning and Economic Development)*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985

7. ITEMS REQUIRING DECISION

- 7.1 Enforcement Action - 31 Ventnor Avenue (Para 12) – *Assistant Director (Planning and Economic Development)*
- 7.2 Enforcement Action – 8 Hylton Road (Para 12) – *Assistant Director (Planning and Economic Development)*
- 7.3 Potential Enforcement Cases (Para 6) – *Assistant Director (Planning and Economic Development)*

6. FOR INFORMATION

Next Scheduled Meeting – Wednesday 17 December 2008 in the Civic Centre at 1.00pm

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of Wednesday 17th December 2008 at 12 noon or at a time to be agreed by the Committee.

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

29 October 2008

The meeting commenced at 1.00 pm in the Civic Centre, Hartlepool

Present:

Councillor: Rob Cook (In the Chair)

Councillors: Stephen Allison, Mary Fleet, Bob Flintoff, Pauline Laffey, Geoff Lilley, George Morris, Carl Richardson and Lilian Sutheran.

In accordance with Council Procedure Rule 4.2 (ii), Councillor Jonathan Brash attended as a substitute for Councillor Chris Simmons and Councillor Sheila Griffin attended as a substitute for Councillor Akers-Belcher.

Officers: Richard Teece, Development Control Manager
Jim Ferguson, Principal Planning Officer
Sylvia Tempest, Principal Environmental Health Officer
Peter Frost, Traffic Team Leader
Richard Smith, Solicitor
Angela Hunter, Principal Democratic Services Officer

75. Apologies for Absence

Apologies for absence were received from Councillors Stephen Akers-Belcher, Shaun Cook, Stan Kaiser, Robbie Payne, Chris Simmons and Edna Wright.

76. Declarations of interest by Members

Councillor Pauline Laffey declared a non-prejudicial interest in minute 78 item H/2008/0551, Councillor Stephen Allison declared a prejudicial interest in minute 78 item H/2008/0534 and indicated he would leave the meeting during its consideration and Councillor Jonathan Brash declared a prejudicial interest in minute 82.

77. Confirmation of the minutes of the meeting held on 1 October 2008.

Confirmed subject to the following amendment:

Minute 58 – Councillor George Morris declared a prejudicial interest in minute 74 and left the meeting during the consideration of that item.

78. Any other items which the Chairman considers are urgent

The Chairman ruled that the following items should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972 in order that the matters could be dealt with without delay:

H/2008/0534 – St Paul's Church Hall, Murray Street;
 H/2008/0155 – Adjacent Stadium (formerly Eastmans), Brenda Road
 Former Sports Centre site, Eldon Grove
 Elwick/Manor Road Footpath – Verbal Update
 Planning applications for Hartlepool College of Further Education and
 Dyke House Secondary School

79. Planning Applications *(Assistant Director (Planning and Economic Development))*

Due to Councillor Stephen Allison's earlier declaration of a prejudicial interest in item H/2008/0534 he left the meeting during its consideration.

Number:	H/2008/0534
Applicant:	Mr Martin Booth NDC Hartlepool, Park Road, Hartlepool
Agent:	Hartlepool Borough Council, Property Services Division, Mr Alan Foster, Leadbitter Buildings, Stockton Street, Hartlepool
Date received:	12/09/2008
Development:	Change of use and alterations to provide multi-cultural centre on ground floor with mosque on the first floor
Location:	ST PAULS CHURCH HALL, MURRAY STREET
Decision:	Planning Permission Refused

REASON FOR REFUSAL

1. In the absence of any on site parking facilities at the application site it is considered that users of the proposed mosque and community centre arriving by car would park on roads close to and around the application site to the detriment of the free flow of traffic, the amenities of the occupiers of housing in those areas and the day to day operation of businesses on Murray Street contrary to Policies GEP1 and Com5 of the Hartlepool Local Plan 2006.

The Committee considered representations in relation to this matter.

Councillor Stephen Allison returned to the meeting at this point.

Number: H/2007/0825

Applicant: Mrs E Leck
Stockton Road, Hartlepool

Agent: Mrs E Leck, 18 Stockton Road, Hartlepool

Date received: 17/08/2008

Development: Provision of roller shutters to front and security grilles to rear

Location: 25-27 VICARAGE GARDENS, STOCKTON ROAD, HARTLEPOOL

Decision: **Planning Permission Approved.**

REASON(S) FOR APPROVAL

Members took the view that there was a need to balance the interests of conservation against crime and the fear of crime and the desire to have the unit brought back into use. Having regard to this and considering that the proposed development would not appear out of keeping when seen against other similar developments in the area Planning Permission was Approved.

The need for and the wording of conditions was delegated to the Development Control Manager.

The Committee considered representations in relation to this matter.

Number: H/2008/0222

Applicant: Wynyard Park Ltd
Wynyard Avenue, Wynyard, Billingham

Agent: Lister Associates, Westminster St Marks Court, Teesdale, Stockton on Tees

Date received: 07/04/2008

Development: Provision of access road and associated works (Resubmitted application)

Location: LOW NEWTON HANZARD/HIGH NEWTON HANZARD, NORTH OF A689

Decision: **A. Planning Permission Approved subject to the following condition(s) and a unilateral agreement**

under the Planning Acts including the provisions outlined in B below

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To comply with S91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 7 April and 22 October 2008, unless otherwise agreed in writing by the Local Planning Authority.
To clarify the period for which the permission is valid.
3. The access road authorised by this permission shall be constructed in accordance with the methodology and specification set out in the high pressure gas pipeline operators' documents CE12 Design SD3 600mm, TSPCE 12_J559_Rev0806 and TSPSSW22_J537_Rev0807 received by the Local Planning Authority on the 22 October 2008. For the avoidance of doubt the concrete impact protection slab to be provided above the existing gas pipeline and cross hatched on the plan attached hereto shall be provided as part of the initial road construction.
In the interests of the health and safety of people using the road.
4. Before any part of the dual carriageway access road is brought into use, a barrier shall be provided to the satisfaction of the Local Planning Authority as to prevent the use by the public of that part of the access road showed coloured green on the plan number KVM08/10 Drg No.20 received by the Local Planning Authority on the 22 October 2008 attached to this permission. That barrier shall be maintained and the part of the access road shown coloured green on the plan shall not be used by the public until the section of the pipeline shown marked orange on the plan KVM08/10 Drg No.20 received by the Local Planning Authority on the 22 October 2008 attached hereto has been replaced by a new thick wall pipeline compliant with the relevant specification for a high density traffic route outlined in the Institute of Gas Engineers Technical Design Document IGE/TD/1 Edition 4 unless otherwise agreed in writing by the Local Planning Authority. Details of the proposed scheme for the replacement of the section of pipe shall be first agreed in writing by the Local Planning Authority. Nothing in this condition shall preclude the use of one lane in each direction of this part of the dual carriageway road prior to the replacement of the section of pipeline in accordance with this condition.
In the interests of the health and safety of people using the road.
5. Prior to commencement of the development of the dual carriageway hereby approved, a system for automatic vehicle detection of the arrival and departure of vehicular trips to and from the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The system so approved shall be installed and commissioned to the written satisfaction of the Local Planning Authority prior to the development being brought into use. It will then be maintained on a basis to be agreed in writing with the Local Planning Authority and operated to the satisfaction of the Local

Planning Authority on that basis.

To enable the monitoring traffic movements upon a section of the road hereby approved to ensure that the volume of traffic using the road does not exceed the limit set out condition 7 of this approval.

6. The information obtained from the approved system of automatic vehicle detection detailed in condition 5 above shall be submitted to the Local Planning Authority in such form and at such time intervals as agreed in writing with the Local Planning Authority when the system is approved.

To enable the Local Planning Authority to monitor the volume of traffic using the road prior to condition 4 of this approval being satisfied, in the interests of the health and safety of people using the road.

7. Not more than 2000 vehicles in total in any hour shall be permitted to use that section of the access road referred to in condition 4 until the works to the pipeline have been carried out in accordance with that condition.

In the interests of the health and safety of people using the road.

8. Prior to bringing into use any part of the access road a scheme shall be submitted to the Local Planning Authority to restrict the volume of traffic on that part of the access road referred to in condition 4 to not more than 2000 vehicles in any hour in total. Such scheme shall include details of additional physical works to those referred to in condition 4 and/or operational restrictions as may be required to ensure compliance with condition 7 together with trigger points for the implementation (or phased implementation) of such measures. The approved scheme shall be implemented and maintained in strict accordance with its terms until the works to the pipeline referred to in condition 4 have been completed to the satisfaction of the Local Planning Authority.

In the interests of the health and safety of the people using the section of road.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.

In the interests of visual amenity.

10. No development shall take place until a scheme for the protection during construction works of all existing trees to be retained within 10m of any part of the development hereby approved in accordance with BS 5837:1991 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials (other than equipment, machinery and materials necessary for the discharge of this condition) are brought on to the site for the purposes of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available

planting season.

In the interests of the health and appearance of the preserved trees.

11. Prior to the commencement of the development hereby approved a scheme for the provision of tree root protection barriers for trees to be planted in conjunction with the landscaping details set out in drawing no. 2459.01 A produced by AWP and received by the Local Planning Authority on the 7 April 2008 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in line with the agreed details and shall remain in place throughout the lifetime of development unless otherwise agreed in writing by the Local Planning Authority.

In the interests of the health and appearance of trees.

12. The development hereby approved shall not commence until a lighting scheme, including details of street lighting columns and heads has been submitted to and agreed in writing by the Local Planning Authority, once agreed the scheme shall be constructed in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

In the interests of visual amenity and highway safety.

13. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.

In the interests of visual amenity.

B Provisions of the Unilateral Undertaking

1 - Unless otherwise agreed in writing by the Local Planning Authority all construction traffic to the site (edged in colour showing all of development site in Hartlepool and Stockton) shall be from the haul road from the western roundabout (indicated on plan) while the dual carriageway, approved by application H/2008/0222, is being used as a single carriageway.

2 - If in any hour a total of more than two thousand vehicles cross the section of road marked in green on the plan attached hereto and either

A) The works to the pipeline described in condition 4 attached to planning permission have not been carried out in full; or

B) Such other operation to the pipeline have not been carried out to the satisfaction of the Local Planning Authority so as to secure the same objectives as to the works referred to in (A)

The developer shall forthwith implement the scheme under condition 8 to the next level of restriction to further physically limit the amount of vehicles crossing this section of road to less than 2000 movements in any one hour. If for any reason the measures required by condition 8 cannot be implemented within 48 hours the road shall be closed forthwith and remain closed until the required measures have been implemented.

3 - Unless otherwise agreed in writing by the Local Planning Authority, prior to the commencement of the development approved by planning application H/2008/0222, proof of the appropriate Advanced Payment Code Agreement under Section 219 of the Highways Act 1980 or other such agreed mechanism with the relevant Highway Authority shall be submitted to and agreed in writing by the Local Planning Authority.

C Stockton Borough Council be advised of the decision.

Number: H/2008/0551

Applicant: Mr R Kennedy
CALEDONIAN ROAD, HARTLEPOOL

Agent: Mr R Kennedy, 74 CALEDONIAN ROAD, HARTLEPOOL

Date received: 22/09/2008

Development: Change of use and incorporation of land into residential curtilage to form extension to driveway

Location: Land to side of 74 CALEDONIAN ROAD, HARTLEPOOL

Decision: **Planning Permission Refused**

REASONS FOR REFUSAL

The proposal would result in the loss of part of this open space area and it is considered that its loss would be detrimental to the visual amenities of the area contrary to policies GEP1 and GN6 of the Hartlepool Local Plan 2006.

The Committee considered representations in relation to this matter.

Number: H/2008/0577

Applicant: MR R Atwal

Agent: H C Designs, 206 North Road, Darlington

Date received: 24/09/2008

Development: Provision of a rear first floor balcony (amended application)

Location: 2 DELAMERE, BILLINGHAM

Decision: **Deferred for further information**

Number: H/2008/0545

Applicant: Mrs O Calvert
DALTON BACK LANE, HARTLEPOOL

Agent: Mrs O Calvert, FOX COVERT, THREE GATES, DALTON BACK LANE, HARTLEPOOL

Date received: 12/09/2008

Development: Retention of portable living accommodation in connection

with livery business

Location: FOX COVERT, THREE GATES, DALTON BACK LANE,
HARTLEPOOL

Decision: **Planning Permission Approved subject to the following condition(s)**

CONDITIONS AND REASONS

1. The residential unit hereby approved shall be removed from the site and the land restored to its former condition on or before 1 November 2011 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority.
The residential unit is not considered suitable as a permanent use of the land at this time in accordance with guidance expressed in Planning Policy Statement 7: Sustainable Development in Rural Areas.

The Committee considered representations in relation to this matter.

Number: H/2008/0553

Applicant: Mr Habib Ullah
MURRAY STREET, HARTLEPOOL

Agent: Mr Habib Ullah, 27 MURRAY STREET, HARTLEPOOL

Date received: 17/09/2008

Development: Variation of planning condition 2 of planning approval H/2006/0906 to allow opening on Sundays and Bank Holidays 10 a.m -11 p.m.

Location: 27 MURRAY STREET, HARTLEPOOL

Decision: **Planning Permission Refused**

REASONS FOR REFUSAL

- 1 It is considered that trading on Sundays and Bank Holidays would be detrimental to the amenities of the occupiers of nearby residential properties by reason of noise and disturbance associated with comings and goings to the site contrary to policies GEP1 Com5 and Com12 of the Hartlepool Local Plan 2006.

The Committee considered representations in relation to this matter.

Number: H/2008/0513

Applicant: Mr R Bingham

COLLINGWOOD ROAD, HARTLEPOOL

Agent: Mr R Bingham, 40 COLLINGWOOD ROAD, HARTLEPOOL

Date received: 26/08/2008

Development: Change of use from single dwelling to 2 flats (retrospective)

Location: 40 COLLINGWOOD ROAD, HARTLEPOOL

Decision: **Planning Permission Approved subject to the following condition(s)**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Within two months of the date of this permission the ground floor accommodation hereby approved shall be adapted in accordance with the amended proposed ground floor plan received by the Local Planning Authority on 08 10 08, unless otherwise agreed in writing by the Local Planning Authority. Once adopted the ground floor accommodation shall remain as such throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt to ensure adequate refuse storage arrangements are in place to serve the development.

Number: H/2008/0155

Applicant: Sycamore Prop Developments
Underhill Road, Cleadon, Sunderland

Agent: Blackett Hart & Pratt, Eldon Chambers, 23 The Quayside, Newcastle Upon Tyne

Date received: 14/03/2008

Development: Application to remove condition 2 attached to application EZ3/7/HO/577/83 to allow general industrial use (B2 use)

Location: ADJACENT STADIUM (FORMERLY EASTMANS), BRENDA ROAD, HARTLEPOOL

Decision: **Planning Permission Approved**

1. Notwithstanding the generality of this permission or the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modifications) prior to the undertaking on the application site of any proposed use as a construction yard or waste operation which would fall within the definition of a general industrial (B2) use within that class final details for 1) a dust suppression scheme, 2) wheel washing facility shall be submitted to, and approved in writing by the Local Planning Authority. The approved details shall be installed before the above use(s) commence(s) and shall thereafter remain operational and be available for their intended use at all times during the lifetime of the development. Any use referred to above where the details cannot be agreed by the Authority shall not be undertaken.
In the interests of the amenities of the occupants of neighbouring properties.
2. Notwithstanding the provisions of Part 8 of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), details of all plant and machinery to be erected and/or operated at the site shall be submitted to and approved in writing by the Local Planning Authority.
To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of neighbouring properties.
3. The method of external storage of all materials and waste, including locations, screening and heights within the site shall be agreed in writing by the Local Planning Authority before any new use is commenced. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.
In the interests of the amenities of the occupants of neighbouring properties.
4. Notwithstanding the generality of this permission or the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modifications) any use which involves COMAH regulations/processes is not permitted by this permission. For clarity COMAH refers to The Control of Major Accident Hazards Regulations 1999 (or any other revoking or re-enacting that Order with or without modification).
To ensure the site is developed in a satisfactory manner.

80. Update on Current Complaints (*Assistant Director (Planning and Economic Development)*)

The Assistant Director (Planning and Economic Development) drew Members attention to nineteen ongoing issues, which were being investigated

Decision

That the report be noted.

81. Appeal by Mr A Richardson, 21 Lowdale Lane, Hartlepool – H/2008/0113 (*Assistant Director (Planning and Economic Development)*)

Members were informed that a planning appeal had been lodged against the refusal of Hartlepool Borough Council to allow the erection of a two storey side and single storey rear extension at 21 Lowdale Lane, Hartlepool. The appeal was to be determined by written representations and authority was therefore requested to contest the appeal.

Decision

That the Assistant Director (Planning and Economic Development) be authorised to contest the appeal.

82. Eldon Grove Sports Centre, Eldon Grove, Hartlepool – 2/2008/0392 (*Assistant Director (Planning and Economic Development)*)

The report referred to an application for the provision of an indoor tennis facility which was refused earlier this year by the Planning Committee. An application had been subsequently submitted for the provision of two all weather surface tennis courts, refurbishment of 2 existing courts and erection of a changing/toilet facility and fencing. Members were informed that this application had recently been approved under the scheme of delegation subject to conditions.

Decision

The report was noted.

83. Elwick Road/Manor Road Footpath - Update

The Development Control Manager informed Members verbally that a provisional date for the public inquiry into the decision taken in relation to the Elwick Road/Manor Road footpath had been set at 7 April 2009. This necessitated the Authority's Statement of Case to be completed by 14 November 2008 and delegated authority was sought for the Statement to be prepared by the Development Control Manager in consultation with the Chair.

Decision

That delegated authority be granted to the Development Control Manager to prepare the Council's Statement of Case in consultation with the Chair.

84. Hartlepool College of Further Education and Dyke House Secondary School

The Development Control Manager informed Members verbally that major planning applications for the redevelopment of Hartlepool College of Further Education and Dyke House Secondary School were expected to be submitted to the next meeting of the Planning Committee. Members were requested to give consideration to whether a site visit to either of these sites would be necessary to enable full consideration to be given to the applications at the next committee meeting.

Decision

It was not deemed necessary to arrange site visits in respect of these two applications on this occasion.

85. Any other confidential items which the Chairman considers are urgent

The Chairman ruled that the following items should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay:

Planning Condition, 26 Egerton Road
Wilkinsons Store, Middleton Grange Shopping Centre
Seaton Meadows Update

86. Local Government (Access to Information) Act 1985.

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute 87 – Enforcement Action – Youngs Recycling Group Ltd, Graythorp Industrial Estate, Hartlepool - This item contains exempt information under Schedule 12A Local Government Act 1972, namely information advice received, information obtained or action taken in connection with legal proceedings by or against the Council or in determination of any matter affecting the Council (para 12).

Minute 88 – Complaint Files to be Closed – This item contains exempt information under Schedule 12A Local Government Act 1972, namely information which reveals that the authority proposes to give under any

enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment (para 6).

Minute 89 – Planning Condition – 26 Egerton Road - This item contains exempt information under Schedule 12A Local Government Act 1972, namely information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (para 5) and information which reveals that the authority proposed to give under any enactment a notice under or by virtue of which requirements are imposed on a person (para 6).

Minute 91 – Seaton Meadows Update – This item contains exempt information Under Schedule 12A Local Government Act 1972, namely information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (para 5) and information which reviews that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.

- 87. Enforcement Action – Youngs Recycling Group Ltd, Graythorp Industrial Estate, Hartlepool** (*Assistant Director (Planning and Economic Development)*) This item contains exempt information under Schedule 12A Local Government Act 1972, namely information advice received, information obtained or action taken in connection with legal proceedings by or against the Council or in determination of any matter affecting the Council (para 12).

An update was provided to Members, details of which were detailed within the exempt section of the minutes.

Decision

The update was noted.

- 88. Complaints Files to be Closed** (*Assistant Director (Planning and Economic Development)*) This item contains exempt information under Schedule 12A Local Government Act 1972, namely information which reveals that the authority proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment (para 6).

A report was submitted which sought Members' authority to close an outstanding complaint case, details of which were detailed within the exempt section of the minutes.

Decision

Details were included within the exempt section of the minutes.

89. Planning Condition – 26 Egerton Road, Hartlepool

(Assistant Director (Planning and Economic Development)) This item contains exempt information under Schedule 12A Local Government Act 1972, namely information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (para 5) and information which reveals that the authority proposed to give under any enactment a notice under or by virtue of which requirements are imposed on a person (para 6).

Members were given an update on the recent development at 26 Egerton Road, details of which were included within the exempt section of the minutes.

Decision

Details were included within the exempt section of the minutes.

90. Wilkinsons Store, Middleton Grange Shopping Centre

A Member referred to the unsightly windows of the Wilkinsons Store on Stockton Road and Victoria Road and sought clarification on what jurisdiction the Council had to ensure they were improved. The Development Control Manager indicated that although the Council had no legal power to enforce such action, the Manager of the store would be approached to discuss a way forward to improve the external look of the building.

Decision

That the Development Control Manager, or his representative, to contact the Manager of the Wilkinsons Store in the shopping centre with a view to improving the external look of the building.

91. Seaton Meadows Update This item contains exempt information Under Schedule 12A Local Government Act 1972, namely information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (para 5) and information which reviews that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.

The Development Control Manager provided an update for Members on Seaton Meadows, details of which were included within the exempt section of the minutes.

Decision

The update was noted.

The meeting concluded at 3.50pm.

CHAIRMAN

No: 1
Number: H/2008/0552
Applicant: Hartlepool College Of FE Stockton Street Hartlepool
Agent: Bond Bryan Architects Mr A Jones Church Studio
Springvale Road Sheffield S10 1LP
Date valid: 30/09/2008
Development: Demolition of existing College and erection of new college
with associated car parking
Location: COLLEGE OF FURTHER EDUCATION AND CAR PARK
ADJOINING STOCKTON STREET HARTLEPOOL
HARTLEPOOL

The Application and Site

1.1 The application site is the existing College of Further Education in Stockton Street and the Local Authority pay and display car park at Albert Street.

1.2 The site, which lies immediately to the east of the main dual carriageway (A689), is within the Town Centre as defined in the Hartlepool Local Plan and adjacent to the Church Street Conservation Area.

1.3 Neighbouring uses/properties include the Middleton Grange Shopping Centre, the Cleveland College of Art and Design, a number of small businesses and residential properties to the south east across Huckelhoven Way.

1.4 The proposed involves the demolition of the existing college buildings and the erection of a purpose designed, contemporary building, which will allow the college to respond to the changing patterns of its curriculum demands, to an increasing number of students.

1.5 In order for the College to function on a day to day basis, the redevelopment of the site has been phased so that as much of the existing campus can be used whilst building works are underway.

1.6 Two buildings to the north, the construction workshop and 'D' block, are to be demolished first. This will allow work to commence on the land to the north – the Albert Street car park and on other existing college car parks.

1.7 The College will also arrange temporary accommodation on other nearby sites to ensure there is as little disruption to students and staff as possible.

1.8 The new buildings comprises 2 curved blocks, connected by a central 'heart space' and will be on 4 levels facing Stockton Street and 3 levels facing the College of Art.

1.9 The building curves from the north close to Church Square around through the site towards Tower Street, with the main central area of the building facing south.

1.10 The main parking area is to the south of the site with additional small parking and servicing areas to the east and north. New landscaping is to be provided throughout the site.

1.11 The proposed development will include a range of specialist facilities to meet the needs of the curriculum. This includes hairdressing, science, hospitality and catering, engineering, aeronautical engineering, fabrication and welding, tech drawing, metallurgy and construction trades.

1.12 There is also a range of social spaces within the building including the entrance atrium, café, refectory and flexible exhibition spaces throughout the building. A range of support facilities will also be provided together with the Business Development Suite and other facilities open to the public.

1.13 State of the art technologies have been included in the design of the building together with high quality building materials which will be sourced locally where appropriate.

1.14 The accommodation facing Stockton Street will be sealed and mechanically ventilated to prevent odour and noise pollution from heavy traffic. The building has also been arranged to maximise the benefits of solar gain. Many other systems have been incorporated within the design of the building to reach and maintain high levels of sustainability. These include heating and cooling systems which use the exposed thermal mass of the building structure, solar thermal energy, rainwater recovery systems and high levels of insulation amongst other things.

1.15 The application also includes a flood risk assessment and Travel Plan Framework (Interim Travel Plan).

Publicity

1.16 The application has been advertised by way of neighbour letters (54) by site notices (2) and in the local press. 6 letters of no objection and 3 letters of objection/comments have been received. The objections/comments include:-

Copy Letter A

- a) no objection as long as the new building is no higher and in the same place as the old building
- b) no building on existing car park
- c) length of time taken will be unacceptable
- d) noise and dust will be a problem
- e) difficulty crossing Huckelhoven Way – part should be closed to motorists
- f) terrible congestion at Andrew Street
- g) concerns raised regarding the potential loss of designated parking spaces for existing options on Upper Church Street.

The period for publicity has expired.

Consultations

1.17 The following consultation replies have been received:

Northumbrian Water – No objections subject to conditions re disposal of surface water.

Engineering Consultancy – No objection subject to standard condition re land contamination. A Section 80 Notice will be required for demolition.

Property Services – No objections/comments.

One North East – No objection provided that the LPA encourages the developer to pursue the highest standards of quality in the development of this site.

Cleveland Police – Recommends that the development should achieve Secured by Design Standards in connection with entrances, boundary treatments, lighting, windows, car parking and cycle storage, landscaping, CCTV and alarms.

JSU – the proposed development is consistent with delivering regional planning policy objectives.

NE Assembly – Awaited.

Planning Policy

1.18 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com1: States that the town centre will be developed as the main shopping, commercial and social centre of Hartlepool. The town centre presents opportunities for a range of commercial and mixed use development subject to policies Com2, Com8 and Com9. Proposals for revitalisation and redevelopment should improve the overall appearance of the area, and also public transport, pedestrian and cycleway facilities and linkages. The Borough Council will encourage the enhancement of existing or creation of new open spaces and will seek to secure the reuse of vacant commercial properties including their use for residential purposes. Proposals for A3, A4 and A5 uses will be subject to policies Com12 and Rec13 and will be controlled by the use of planning conditions.

Com2: States that in this area retail development of an appropriate design and scale in relation to the overall appearance and character of the area will be approved. Other uses will only be allowed where they do not impact on the primary retail function of this area or adversely affect the character and amenity of the surrounding area. Display window frontages may be required through planning conditions. Residential uses will be allowed on upper floors where they do not prejudice the further development of commercial activities.

Com9: States that main town centre uses including retail, office, business, cultural, tourism developments, leisure, entertainment and other uses likely to attract large

number of visitors should be located in the town centre. Proposals for such uses outside the town centre must justify the need for the development and demonstrate that the scale and nature of the development are appropriate to the area and that the vitality and viability of the town centre and other centres are not prejudiced. A sequential approach for site selection will be applied with preferred locations after the town centre being edge-of-centre sites, Victoria Harbour and then other out of centre accessible locations offering significant regeneration benefits. Proposals should conform to Com8, To9, Rec14 and Com12. Legal agreements may be negotiated to secure the improvement of accessibility.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP10: Encourages the provision of public art and craftwork as an integral feature of new development.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

GEP6: States that developers should seek to incorporate energy efficiency principles through siting, form, orientation and layout of buildings as well as through surface drainage and the use of landscaping.

GEP9: States that the Borough Council will seek contributions from developers for the provision of additional works deemed to be required as a result of the development. The policy lists examples of works for which contributions will be sought.

Tra19: States that residential and industrial estates should be designed to ensure adequate access by modes of transport other than the car. Where appropriate, developer contributions will be sought towards improved public transport and alternative transport accessibility.

Tra20: Requires that travel plans are prepared for major developments. Developer contributions will be sought to secure the improvement of public transport, cycling and pedestrian accessibility within and to the development.

Planning Considerations

1.19 The main considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan, the impact of the development on neighbouring properties and the surrounding area in terms of amenity and on highway safety.

Principle of Development

National Guidance and Regional Planning Policies

1.20 In terms of National Guidance, Planning Policy Statement 6 (PPS6) Planning for Town Centres states that local planning authorities should encourage well designed development within and around existing centres such as this. PPG13 Transport emphasises that accessibility should be a key consideration in all development decisions.

1.21 The recently issued Regional Spatial Strategy for the North East recognises the role of universities and colleges in the regional economy. RSS Policy 14 states that planning proposals should support the necessary infrastructure and campus development to enable their expansion.

1.22 As the site is located within Hartlepool Town Centre, partly on the site of the existing college and partly on the Albert Street car park, in an area zoned for education use, the principle of development is considered to be both acceptable and appropriate. The proposal is considered to be an important development for the town, providing a landmark building with 'world class' facilities.

Visual Amenity

1.23 This is a purpose designed, contemporary building which will occupy a prime location within the town centre and replace a group of buildings which have evolved to the current position, since the 1950's.

1.24 The existing college comprises a mixture of 2, 3, 4 and 5 storey blocks built at different stages and linked with infill blocks. The new building at its highest is 4 storeys and has been designed and sited to fit the available site boundaries taking into the account that the college must function whilst the new parts are under construction.

1.25 In terms of siting, the new building sits well with nearby commercial properties and is well distanced from residential properties at William Street and Newhaven Court (almost 50m away).

1.26 A comprehensive landscaping scheme has been submitted and indicates both hard and soft landscaping within the site. Many of the existing trees are to be retained, however the Council's arborist has commented that the poplar trees along the Stockton Street frontage are in poor condition and should be removed then replaced with suitable, more durable trees.

1.27 Additional tree and shrub planting are included around boundaries with Stockton Street, Huckelhoven Way and part of Tower Street. Trees will also be

planted throughout the large car park to the south of the site, around the small northern square and at the corner of Albert Street and Brunswick Street, close to Dickens DIY store.

1.28 Visual association has been maintained between the north entrance to the college and Upper Church Street. This provides a link between the existing open spaces within the Church Square area and the public areas to the front of this north college entrance and moving south towards the main college entrance.

Highway Safety/Car Parking

1.29 At present the existing public car park at Albert Street caters for 100 permit holders and 75 pay and display bays. Spaces in the multi storey car park are to be re-allocated for the displaced permit holders. Permit parking is still currently available in and around Bryan Hanson House as an alternative to the multi storey.

1.30 Twenty seven of the existing spaces in the Albert Street car park (adjacent to the College of Art) are to be retained (reserved) for use by businesses in Upper Church Street and Church Square. The existing access road which services properties on Upper Church Street will also be retained.

1.31 A total of 275 parking spaces have been provided within the new site. Separate motorcycle spaces and lockable cycle stores have also been included together with a drop-off point near the main entrance. Access to the main car park is from Andrew Street with egress onto Huckelhoven Way. The service area/staff parking area is to be accessed from Tower Street.

1.32 A travel plan framework has been provided in order to promote sustainable transport associated with the college. This framework will be used to prepare a final travel plan which will be monitored by annual surveys.

1.33 This part of the town is well served by public transport with bus and rail links close by, together with a number of cycle routes.

1.34 Although the NE Assembly comments are awaited it is anticipated that these would be positive.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is

the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.

In the interests of visual amenity.

4. No development shall take place until a scheme for the protection during construction works of all trees to be retained on the site, in accordance with BS 5837:2005 (Trees in relation to construction - Recommendations), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.
In the interests of the health and appearance of the preserved tree(s).
5. No development shall take place until the following matters have been addressed

A. Initial Conceptual Model

The development hereby permitted shall not be commenced until a desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on all receptors relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority.

B. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

C. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

D. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

E. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition B, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition C, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition D.

F. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 10 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

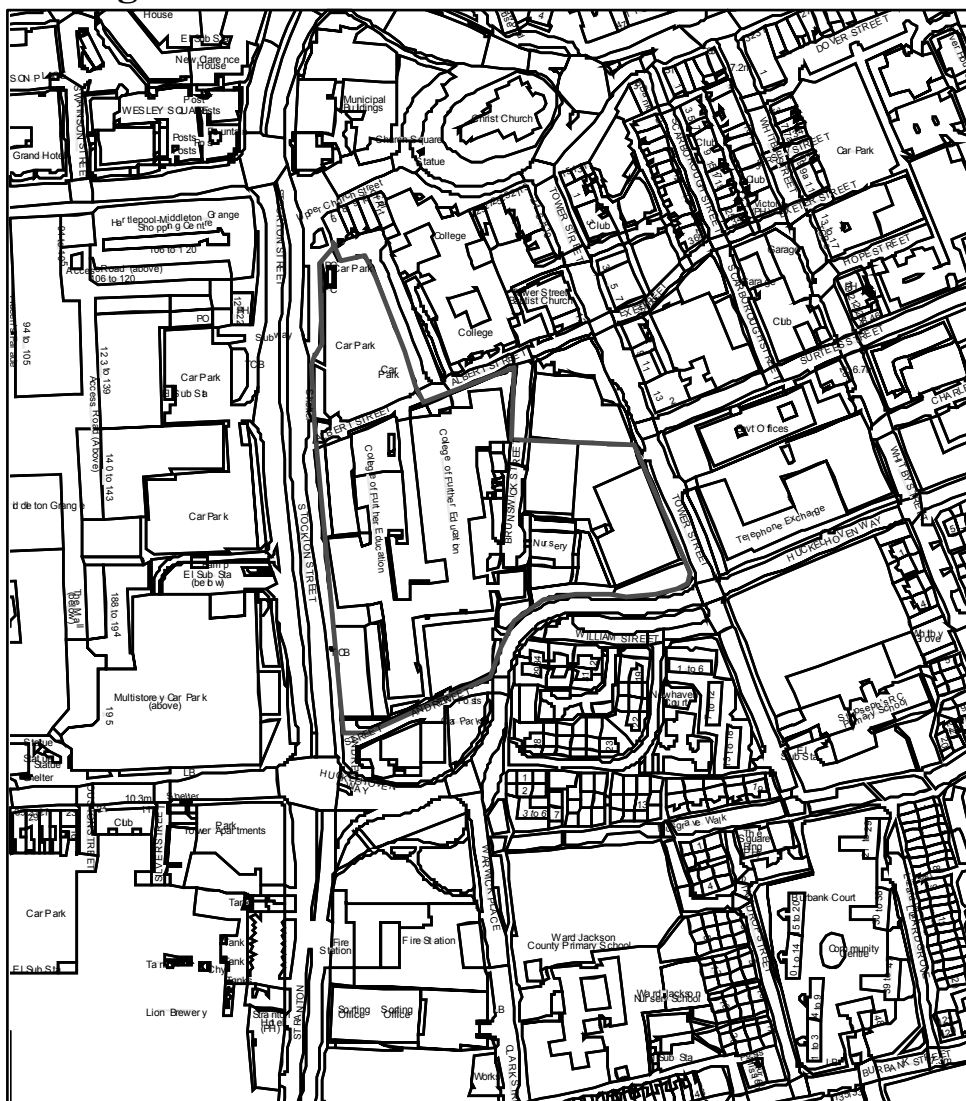
To ensure that risks from land contamination to the future users of the land

and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy GEP18 of the adopted Hartlepool Local Plan 2006.

6. Prior to the commencement of the development hereby approved, a scheme of security measures for buildings and car park incorporating 'Secured by Design' principles shall be submitted to and approved in writing by the Local Planning Authority. Once agreed the measures shall be implemented prior to the development being completed and occupied and shall remain in place throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
In the interests of security.
7. Notwithstanding the submitted plans, final details of the cycle storage shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use. Thereafter the scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
In the interests of highway safety.
8. No development shall take place until further details of the new access onto Tower Street have been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The works shall be carried out by a credited RASWA contractor.
In the interests of highway safety.
9. Prior to the new access on to Tower Street being brought into use, a scheme for parking restrictions for 30m on either side of the new entrance, funded by the developer, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
In the interests of highway safety.
10. Prior to the new access on to Brunswick Street being brought into use, a scheme for parking restrictions on either side, for the full length of the road, funded by the developer, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
In the interests of highway safety.
11. Development shall not commence until a details scheme for the disposal of surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.
To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25 "Development and Flood Risk" and complies with the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2000.

12. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenities

College of Further Education



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:3,000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2008/0552	REV

No: 2
Number: H/2008/0593
Applicant: Tesco Stores Ltd
Agent: Development Planning Partnership LLP 5-13 The Side
Newcastle upon Tyne NE1 3JE
Date valid: 02/10/2008
Development: Relocation of Petrol Filling Station
Location: TESCO SUPERMARKET LTD BURN ROAD
HARTLEPOOL

The Application and Site

2.1 The application site is the Tesco supermarket located on the south east corner of the Burn Road/Belle Vue Way roundabout. Planning consent has recently been granted for a large extension to the store. This involved the incorporation of the adjacent industrial site (Stranton Sawmills) within the new site boundary.

2.2 Neighbouring properties/uses are commercial and industrial to the north, east and south with residential properties to the west across Belle Vue Way.

2.3 The proposal involves the re-location of the existing petrol filling station from its current position to a new location in the north west corner of the site, close to the Burn Road roundabout. The existing access to the site from Burn Road will be used to access both the car park and the new petrol filling station.

2.4 Most of the north end of the existing site will be altered to accommodate the new works which also include a car wash, bus lay-by, staff parking area and recycling bay.

2.5 There will also be some alterations to the landscaping areas around the northern boundaries of the site.

Publicity

2.6 The application has been advertised by way of neighbour letters (48) and by site notice. To date, there have been 6 letters of no objection and 4 letters of objection (2 from the same person).

2.7 The concerns raised are:

- a) Increase in noise and disturbance
 - b) Smells/pollution
 - c) Light pollution
 - d) Disturbance to sleep
 - e) Nothing wrong with current location
 - f) If approval is granted, the site should be screened by additional landscaping
- Copy letter C

The period for publicity has expired.

Consultations

2.8 The following consultation replies have been received:

Public Protection – No objections. The existing petrol tanks will need to be made permanently safe preferably by removal.

Traffic and Transportation – No objection provided that the middle pedestrian walkway width is increased to 3m to allow the use of cycles and pedestrians.

Northumbrian Water – No objections

Engineering Consultancy – No objections subject to the provision of additional information regarding ground investigations particularly around the area of the existing storage tanks. This should include an updated site investigation report and remedial strategy. The standard condition relating to contamination would be appropriate to cover this.

Environment Agency – Objected initially on the grounds that the applicant had not supplied adequate information to demonstrate that the risks posed to ground water can be satisfactorily managed. Insufficient information regarding foul drainage had also been provided. Comments on subsequent information awaited.

Planning Policy

2.9 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com10: States that retail development which would be suitable in the town centre will not be permitted in identified industrial areas. The policy also lists the types of retailing which may be acceptable in industrial areas.

Com11: States that petrol filling stations will be permitted within the urban area subject to considerations of amenity and highway safety. Retailing may be restricted to protect the viability of nearby local centres.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments

where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

GEP4: States that development proposals will not be approved which would have a significant detrimental effect on the environment, on amenities of local residents, watercourses, wetlands, coastal waters, the aquifer or the water supply system or that would affect air quality or would constrain the development of neighbouring land.

GEP6: States that developers should seek to incorporate energy efficiency principles through siting, form, orientation and layout of buildings as well as through surface drainage and the use of landscaping.

Planning Considerations

2.10 The main planning considerations in the determination of this application are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan, the impact of the development on the surrounding area and on the amenities of nearby residents and on highway safety.

Principle of Development

2.11 In policy terms, the site lies within the limits to development and forms part of an existing retail land use on the edge of the Longhill Industrial Estate. In view of this, the relocation of the petrol filling station is considered to be acceptable.

Highway Issues

2.12 Whilst the relocation of the petrol station within the existing site will affect the layout of the car park, no alterations are proposed to the newly completed light controlled junction with Burn Road.

2.13 No objections have been raised by the Highway Engineer with regard to this although some adjustments will be required to the middle pedestrian walkway. This can be dealt with by the appropriate condition.

Residential Amenity

2.14 The new petrol filling station is slightly bigger than the existing station with 8 pumps instead of 6. The buildings are flat roofed and modern in design, similar to many others in the town.

2.15 The nearest residential properties, in Studley Road and Vicarage Court are approx. 70m from the site boundary and separated by an area of open space and the main A689 dual carriageway.

2.16 The objections raised by residents of this area revolve around pollution in terms of noise, light and smells. In terms of increased noise, it is considered that the noise from the dual carriageway will be much more prominent than anything from the

relocated petrol station. Modern filling stations are required to be fitted with vapour recovery systems which are totally enclosed and vapours driven off the tanks during deliveries are collected back into the tankers. These systems are permitted and regulated by Hartlepool Borough Council under Environmental Permitting Regulations.

2.17 In addition to this, the majority of petrol stations will have to install stage 2 vapour systems by January 2010. These systems take the vapours from the cars petrol tank back into the petrol pump during filling. Tesco has already installed these tanks on its existing forecourt. In view of this, it is unlikely that concerns regarding odours could be substantiated.

2.18 Whilst light pollution is acknowledged to be a problem which affects all towns and cities, the site is already well lit by the existing store, petrol station and car park lighting. Belle Vue Way and the surrounding area is also well lit and there are a number of commercial and industrial businesses with illuminated signs.

2.19 It is unlikely therefore that the relocation of the petrol station would significantly add to the existing situation to an extent that the additional lights would significantly impact on the visual amenity of nearby residents.

2.20 Whilst it is acknowledged that the new petrol station will be visible from nearby residential properties, it is unlikely to be significantly different to the existing view. Some additional planting has been indicated on this corner of the site which is anticipated to screen some of the new development.

2.21 No objections have been raised by the Council's Principal Environmental Health Officer regarding the above issues.

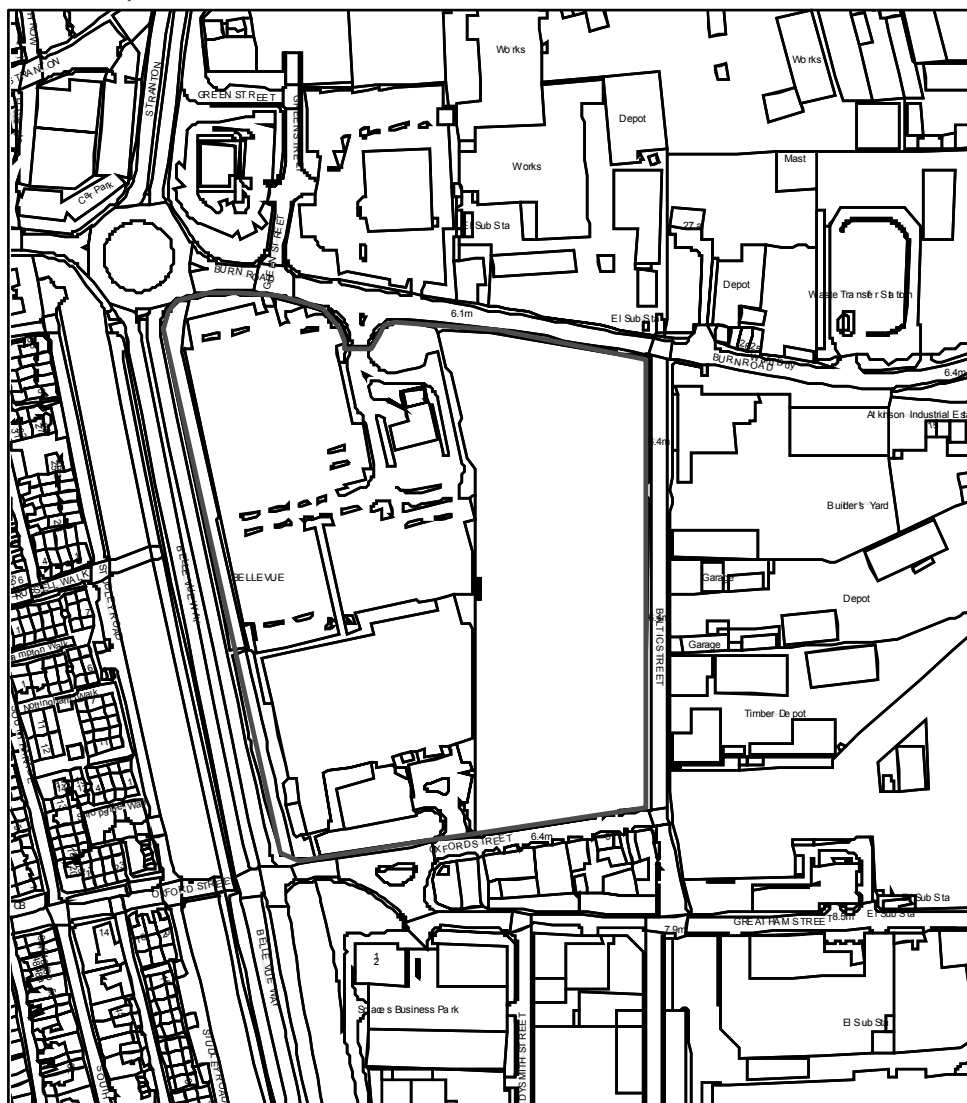
Environmental Issues

2.22 Whilst the Environment Agency has raised objections to the proposals, these revolve around insufficient information having been provided by the applicant.

2.23 Additional information regarding the risks to groundwater and foul drainage has now been received by the Local Planning Authority and the Environment Agency. This information is currently under scrutiny by the Environment Agency who will respond before the Committee.

RECOMMENDATION An update report will follow

10



THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<h1>HARTLEPOOL</h1> <h2>BOROUGH COUNCIL</h2>	DRAWN GS	DATE 11/11/08
	SCALE 1:3,000	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2008/0593	REV

No: 3
Number: H/2008/0525
Applicant: Able UK Ltd Billingham Reach Industrial Estate
 Billingham TS23 1PX
Agent: Able UK Ltd Able House Billingham Reach Industrial
 Estate Billingham TS23 1PX
Date valid: 19/09/2008
Development: Conversion of existing living accommodation to offices
Location: ABLE UK LTD TEES ROAD HARTLEPOOL
 HARTLEPOOL

The Application and Site

3.1 The application site is part of the Able UK Port Facility, known as TERRC. The application proposes the change of use of a module from offshore accommodation to office use with welfare/hygiene facilities for the use of the staff at TERRC. The oil rig living quarters module is established onsite adjacent the boundary with the Power Station under the consent granted to Able to demolish offshore structures.

3.2 The module is a steel four storey structure, 50metres in length, 25metres in width and 18metres in height. The methodology for installing the structure on the site requires that it be brought to rest on platforms, therefore stairways are proposed to access the building.

3.3 Parking for the building is provided within the general site car park at the northern end of the facility.

Publicity

3.4 The application has been advertised by way of site notice and press notice. To date, there have been no responses.

The period for publicity expires on the 28th November 2008.

Consultations

3.5 The following consultation replies have been received:

Public Protection	No objection
Traffic and Transportation	There are no major highway implications with this application
Northumbrian Water	No objection
Health and Safety Executive	Do not advise against the grant of planning permission
HSE Nuclear Installations Inspectorate	No objection

National Grid & Transco	Advise that there is moderate risk, however no objection.
Northern Gas Networks	No objection
British Energy	Awaiting comments

Planning Policy

3.6 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Ind5: States that business uses and warehousing will be permitted in this area. General industry will only be approved in certain circumstances. A particularly high quality of design and landscaping will be required for development fronting the main approach roads and estate roads.

Ind8: States that the Borough Council will encourage environmental and other improvement and enhancement schemes in designated industrial improvement areas.

Ind9: Reserves land in this area for developments which are potentially polluting or hazardous. These will be permitted where there is no significant detrimental effect on the environment or on designated nature conservation sites, on amenity or on the development of neighbouring land. In these respects special regard will be had to advice received from the Health and safety Executive, HM Inspector of Pollution, the Environment Agency and English Nature as appropriate.

Planning Considerations

3.7 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted

Hartlepool Local Plan outlined above and in particular the impact of the proposals upon the area in general, in terms of outlook, dominance and appearance. Highway safety issues also need to be considered.

3.8 The position of the module is similar to that of the proposed 'Office and Welfare' building previously approved under ref: H/FUL/0462/0 and also utilises a similar car parking arrangement.

3.9 Although the module is large it is not considered to be out of keeping with the surrounding area. The module is sited close to the boundary of the power station and in terms of scale is similar to equipment at the power station site. The application proposes the reuse of a module which otherwise would be scrapped, therefore the reuse of the module is considered to be sustainable and should be encouraged.

3.10 In terms of the response from National Grid, moderate risk means that if there is any large scale equipment e.g. cranes etc to erect the building then plans need to be shown to National Grid for consideration. After discussions National Grid are aware that the module is onsite as part of Able's approval for the demolition of offshore structures and they offer no objection to the scheme.

3.11 In terms of highway safety, the Traffic and Transportation team have confirmed that there are no major highway implications with the proposed change of use of the module.

Conclusion

3.12 Having regard to the policies identified in the Hartlepool Local Plan 2006 above and in particular consideration of the effects of the development on the amenity of area in terms of outlook and its appearance the development is considered satisfactory. Given that the press notice does not expire until the 28th November 2008 and an outstanding consultation is awaited, it is advised that Members give authority to the Development Control Manager for the final decision.

RECOMMENDATION – Minded to approve the application subject to the conditions below, however due to outstanding publicity and consultation response, delegate final decision to the Development Control Manager:

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 15th and 19th September 2008, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt.

Able UK

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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:8,000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2008/0525	REV

No: 4
Number: H/2008/0495
Applicant: Chase Property Developments
Agent: Savills Mr T Adey Fountain Court 68 Fountain Street
 Manchester M2 2FE
Date valid: 03/10/2008
Development: Application to allow additional floorspace to vary the size
 of units and extend the range of goods that can be sold
Location: TEESBAY RETAIL PARK BRENDA ROAD
 HARTLEPOOL HARTLEPOOL

The Application and Site

4.1 The application site is an existing retail park located on the west side of Hartlepool close to the junction of the A689 and Brenda Road. It currently extends to some 14,676 square metres. At the northern and north eastern end of the park are a range of buildings currently occupied by B & Q, Storey/WalterWall Carpets, Aldi, Poundstretcher, UK Bowling with the remaining units currently vacant. At the south eastern end of the Park is a former filling station and a building occupied by Halfords. The south east corner of the site is open and undeveloped.

4.2 The park is bounded to the south and east by an area of raised waste ground which is allocated in the local plan for outdoor recreation and sporting development. To the north is a landscape buffer beyond which passes the A689. To the western side of the site is a pond and Brenda Road beyond which are commercial premises on the Usworth Road Industrial Estate, a garage, bus depot and a vacant site.

4.3 The site already benefits from extant planning permissions some of which have been implemented and which are subject to various restrictive conditions. The application seeks planning permission to remove/vary these various conditions (Conditions 4-EZ2/3/OUT/519/85, Condition 2-H/FUL/0619/01, Conditions 4, 5, 6 – H/2005/5921). In particular to extend the permitted retail floor space allowed within planning approval H/2005/5921 by a further 4,537 square meters to 11,017 square metres. This additional space will be accommodated through altering the footprint of some units slightly but mainly through the use of mezzanine floors. The application also seeks to remove planning conditions limiting minimum unit size and the range of goods that can be sold contained on this and earlier permissions. Instead two new planning conditions are proposed. One limiting floor space for the sale of food to 8,933 sq metres other than ancillary café, confectionary, hot snacks or meals. A further proposed condition limits the amount of D2 leisure floorspace to 2,508 square metres. (It is understood this relates to the existing Bowling facility). Finally the applicant seeks flexibility to allow three of the units to be occupied by Class A3 (Restaurant & Café) operators. (Whether the latter two matters can be properly considered as part of the current application, which seeks to remove and vary conditions imposed on retail units, is currently under consideration).

4.4 The revised indicative site layout shows a 11,017 square metre extension to the existing retail and leisure floorspace which will bring the total floorspace at Tees Bay to 25,851 square metres. This will be provided in ten new units. Unit 6 will link Poundstretcher to the adjacent vacant unit which will be subdivided into three units, Units 11 to 16 will be located in the south east corner of estate effectively closing this corner. Unit 18 a stand alone unit will be provided to the north of the existing Halfords Unit. Units 19 & 20 will be provided in the centre of the site on the site of the former car wash. Units 11,12,13 will accommodate 4,415 sq m of the proposed additional floorspace in a mezzanine floor. Car parking and pedestrian areas within the site will be extended and remodelled and the service road extended. At the entrance to the site the existing service station will be removed and a water feature formed.

4.5 In support of the application the applicant has submitted a Flood Risk Assessment, a design and access statement, a Transport Assessment and a retail statement.

4.6 The applicant states that the retail park is no longer fit for purpose which he attributes to restrictive planning controls which limit the range of retailers, dated premises and overall poor image, and high vacancy rates re-enforcing negative perceptions amongst prospective purchasers. He considers that the proposal can address the park's decline by broadening the range of goods and so retailers, upgrading the park and by providing a range of units to cater for a wide range of tenants.

4.7 The retail assessment concludes that the Park is in need of regeneration. That there is a need for the development, that the development is of an appropriate scale, the site is accessible, there are no sequentially preferable sites available and that the proposal will not have an unacceptable impact on the vitality and viability of existing centres. Further that the development will regenerate the existing retail park, contribute to employment opportunities and social regeneration.

Relevant Planning History

4.8 The planning history of the site is complex.

4.9 Outline Planning Permission was originally granted for a non food retail centre on the site in April 1986 (EZ2/3/OUT/519/85). A condition (4) on this "principal permission" restricted the sale of food from the premises other than confectionary, hot snacks or meals. A legal agreement dated 10th April 1986 the "principal legal agreement" completed in connection with the planning permission further restricted the range of goods which could be sold from the site to bulky specialised goods not generally expected to be found in the town centre. For example timber and other products, hardware, plumbing, electrical, building maintenance and construction, insulation, furniture, flooring, glass, decorating equipment, D.I.Y, leisure, Autocentre, Gardening, Pet products, related books and publications, food and drink (in a restaurant/snack bar). This was varied in 7th August 1986 to allow for the sale of ready made furniture and the sale or hire of other specific goods (electrical, hi-fi, tapes, cassettes, cartridges films optical and photographic equipment watches and clocks) by a specified retailer/retail group (Harris Queensway Plc) in part of the

development (up to 25% of the whole or 2000 square metres whichever is the greater).

4.10 In Nov 1986 reserved matters were granted for the erection of the non food retail units (H/EZ2/0479/86).

4.11 In December 1991 planning permission was granted for the change of use of units 2,3A and 3B from non food to food retail.(H/FUL/0619/91). A condition (2) attached to the approval restricted the maximum gross floorspace of food retailing to 1417 sq m and required the accommodation to be contained solely within units 2 ,or, the combined units 3A and 3B. The principal legal agreement was varied through a supplemental agreement dated 14th September 1993 to allow for this. This unit, unit 2, is now occupied by Aldi .

4.12 In April 1993 a planning application by Iceland for the change of use of unit 3a was refused for reasons relating to the cumulative impact on the Town Centre.(H/FUL/0066/93).

4.13 In November 1994 planning permission was granted for the erection of a non food retail unit in the south east corner of the site opposite Halfords. A condition restricts food sales other than within an ancillary restaurant, canteen or snack bar. This application does not appear to have been implemented. (H/FUL/0547/94).

4.14 In December 1996 permission was granted to vary the principal legal agreement to extend the range of goods sold however it does not appear that the formal variation of the principal legal agreement was completed due it is understood to the complexity and multitude of owners and tenants of the retail park. (H/VAR/0118/96).

4.15 In 2001 permission was granted to vary the principle legal agreement to allow for the use of unit 3B for the unrestricted sale of non food retail goods. (H/VAR/0454/00). The principal agreement was varied by a supplemental agreement dated 1st February 2008. This unit is now occupied by Pound Stretcher.

4.16 In September 2004 planning permission was granted for the subdivision of two existing units, 1 & 4, with new customer feature entrances to front and new service doors to rear elevations to create separate retails units within the existing buildings. (H/FUL/0101/04). The permission allowed for the subdivision of the units into 5 retail units. No conditions relating to the use of these units nor the range of goods sold were imposed on this permission.

4.17 In June 2007 outline planning permission was granted for alterations to existing units, erection of additional units and associated infrastructure and landscape works. (H/2005/5921). A condition on the approval (4) restricted the total new retail warehouse floorspace to 6,480 square metres gross. A condition (5) restricted the minimum size of unit to not less than 929 square metres. A condition (6) restricted the range of goods which could be sold. Specifically the permission did not allow the units to sell, food and drink, clothing and shoes (including sports clothing), books and stationary, CDs and other recorded audio-visual material, toys and children's goods,

jewellery, clocks and watches, sports equipment and accessories, china and glassware, musical instruments, medical, chemist and opticians goods and pet products. These conditions were imposed to protect the viability of the town centre. It is this permission in the main that the current application seeks to vary to allow for the erection of additional floorspace, the sale of a wider range of goods and the removal of limits on the minimum size of unit. The permission was subject to a legal agreement securing employment opportunities for local people, a travel plan and a financial contribution to secure a cycleway link which was completed on 28th June 2007.

4.18 In 2007/2008 the applicant applied for certificates of lawfulness to establish that the lawful use of units 1 and 4 were permission H/FUL/0101/04 to be implemented would be for any purpose within Class A1 shops. The certificates were granted in May 2008 with the proviso that the decision was without prejudice to the enforceability of the covenants in any legal agreements relating to the site

Summary of Planning History

4.18 In summary the use of the existing and approved units on the site is restricted by a combination of both legal agreements and planning conditions.

4.19 In relation to the principal legal agreement the main effect of this, and the various supplemental agreements, is to restrict the goods sold on the site to bulky specialised goods not generally expected to be found in the town centre except where variations have been allowed to the agreement in units occupied by Aldi and Pound Stretcher and for Harris Queensway Plc. The applicant has recently questioned the status of the principal legal agreement and whether it can still be applied to the site. He considers that the legal agreement completed in connection with H/2005/5921 dated 28th June 2007 supersedes the principal legal agreement. The initial Officer view is that the principal legal agreement still applies. Legal advice has been sought on this matter however and the legal position will be the subject of a separate report.

4.20 In relation to planning conditions the main effect of the extant planning permissions is that the original permission (EZ2/3/OUT/519/85) restricts the sale of food on the whole site except in relation to the unit occupied by Aldi where this condition has been relaxed by the permission in 1991.(H/FUL/0619/91). It will also be relaxed in the case of units 1 & 4 should planning permission (H/FUL/0104/04) be implemented. The conditions imposed on the recent 2007 permission (H/2005/5921) restricts the range of goods that can be sold from the new units should they be erected, the minimum size of units and the maximum amount of floor space.

Publicity

4.21 The application has been advertised by site notice, neighbour notifications(10) and in the press. The time period for representations has expired.

Two letters of objection were received from a consultant representing the owner of Anchor Retail Park. The writer raises the following issues.

- Format of application is inappropriate.
- The proposal is contrary to policy as it seeks to allow out of centre retail floor space and allow the sale of goods without restriction, including food, that should be sold in the town centre.
- The retail statement is deficient and does not satisfactorily demonstrate that the application accords with retail planning policy.

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Consultations

4.25 The following consultation replies have been received:

Head of Public Protection: No objection.

Northumbrian Water : No objection.

Traffic & Transportation: The proposed traffic flows from the development will have minimal impact on the highway network given the amount of traffic generated from it.

The legal agreement which was put in place with the previous permission for the retail park, which involved the proposed cycle route and travel plan, should pass over to this application if planning permission is granted.

The proposed parking for development is acceptable. There should be at least 32 spaces for disabled and they should be set out in accordance with BS8300:2000. The layout of the car park can be conditioned and agreed with my department.

The development will require cycle parking. The cycle parking should be located so it is secured and covered. The details can be condition and agreed with my department.

Tees Valley JSU : No comments received.

Environment Agency : No comments received.

Engineering Consultancy : No objections.

English Nature : No comments received.

Economic Development : In general terms I fully support further investment into the Park encouraging private sector investment and job creation. The proposals fit with the emerging Southern Business Zone strategy and support a number of the themes within the strategy. In terms of specific uses I do not have any particular objection to a broad range of uses including food retail in economic development terms, however this particular use will need to be considered in the light of retail studies and Local plan policies.

North East Assembly : No comments received.

One North East : I understand that this application follows a previous approval (ref: H/2005/5921) for development of additional retail units at this retail park. The previous application pre-dated the commencement of One North East's statutory planning consultation role and therefore the Agency did not comment on that original outline application.

It is noted that concerns relating to the potential impact of the proposed retail development of this site on the town centre resulted in the imposition of conditions by the planning permission to restrict the use, range of goods to be sold and minimum size of the units.

The current application seeks to vary those restrictive conditions to enable:

- reconfiguration of units and increase in overall floorspace provision;
- not more than 8933sqm of floorspace to be used for the sale of food (other than ancillary café sales, confectionary, hot snacks or meals or any other food which may be agreed by the Local Planning Authority);
- not more than 2508sqm of floorspace to be used for Class D2 leisure purposes;
- use of three units for Class A3 purposes.

Clearly the issues relating to the protection of the vitality and viability of the town centre which were a concern to the Local Planning Authority (LPA) in determining the original application remain. I understand that the LPA is currently considering the retail assessment submitted to support the application in the context of Council policies and guidance offered by PPS6:Planning for Town Centres.

In coming to a decision, One North East would urge the LPA to be satisfied that the revisions to the original permission are in accordance with policy and guidance and to establish as far as possible that the proposed changes will not result in a detrimental impact upon the vitality and viability of retail operators within the town centre. Subject to this aspect and all environmental issues of the application being satisfactorily resolved, One North East does not object to the proposed revisions.

As you are aware the RES promotes the need for quality of place within existing and proposed development. With this in mind, should the application be viewed favourably, the Agency would request the LPA to encourage the developer to pursue the highest standards of quality in the development of this site, e.g. BREEAM, Building for Life and Secured by Design.

In line with Government objectives to generate 10% of electricity from renewable energy sources by 2010 the application details regarding the provision of renewable energy measures within the scheme should also be provided.

Cleveland Police : No comments received.

Tees Valley Regeneration : TVR would wish to express general concern about the effect that such an out-of-town retail facility would have on the existing provision in the Town centre and proposed Victoria Harbour development. We have concerns

that the proposal will detract from the existing retail provision, albeit that the bulky goods proposals at Victoria Harbour are now under review, and there may therefore be no direct conflict.

Planning Policy

4.26 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com7: Identifies this area for mixed uses comprising non food retail, leisure and business uses. Developments attracting large numbers of visitors should comply with policies Com8 and Rec14.

Com8: States that the sequentially preferred locations for shopping development are firstly within the town centre, then edge-of-centre sites, Victoria Harbour and then other out of centre accessible locations offering significant regeneration benefits. Retail proposals over 500 square metres located outside the primary shopping area will be required to demonstrate need, to justify appropriate scale and to demonstrate that a sequential approach has been followed. All retail proposals over 2500 square metres gross to be accompanied by a Retail Impact Assessment. For proposals between 500 and 2499 sq metres applicants should agree with the Council whether retail impact assessment is required. Legal agreements may be sought to secure rationalisation of retail provision and the improvement of accessibility and conditions will be attached to control hours of operations.

Com9: States that main town centre uses including retail, office, business, cultural, tourism developments, leisure, entertainment and other uses likely to attract large number of visitors should be located in the town centre. Proposals for such uses outside the town centre must justify the need for the development and demonstrate that the scale and nature of the development are appropriate to the area and that the vitality and viability of the town centre and other centres are not prejudiced. A sequential approach for site selection will be applied with preferred locations after the town centre being edge-of-centre sites, Victoria Harbour and then other out of centre accessible locations offering significant regeneration benefits. Proposals should to conform to Com8, To9, Rec14 and Com12. Legal agreements may be negotiated to secure the improvement of accessibility.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP9: States that the Borough Council will seek contributions from developers for the provision of additional works deemed to be required as a result of the development. The policy lists examples of works for which contributions will be

sought.

Rec14: States that major leisure developments should be located within the town centre. Then policy then sets out the sequential approach for preferable locations after the town centre as edge of centre sites including the Marina, then Victoria Harbour, or the Headland or Seaton Carew as appropriate to the role and character of these areas and subject to effect on the town centre, and then elsewhere subject also to accessibility considerations. The need for the development should be justified and travel plans prepared. Improvements to public transport, cycling and pedestrian accessibility to the development will be sought where appropriate.

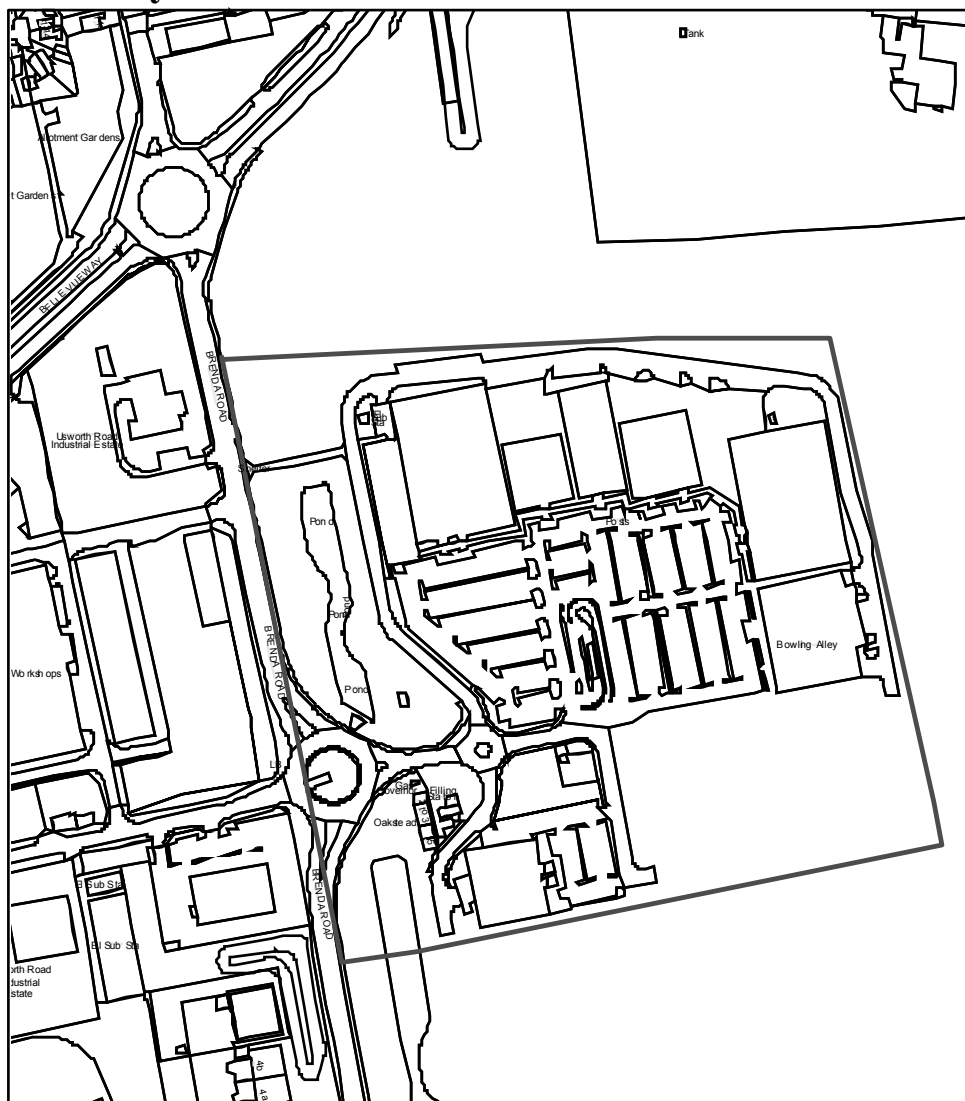
Tra20: Requires that travel plans are prepared for major developments. Developer contributions will be sought to secure the improvement of public transport, cycling and pedestrian accessibility within and to the development.

Planning Considerations

4.27 The main planning considerations are at this time considered to be the scope of the application, policy in particular the suitability of the development in terms of national and local retail policies, highways, flooding, impact on the amenity of neighbours and Conservation. However a number of consultations are outstanding and in light of this an update report will follow with additional issues discussed should they arise.

RECOMMENDATION – Update report to follow

Teesbay Retail Park



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:3,000	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2008/0495	REV

No: 5
Number: H/2008/0577
Applicant: MR R Atwal
Agent: HC DSigns 206 North Road Darlington DL1 2EN
Date valid: 24/09/2008
Development: Provision of a rear first floor balcony (amended application)
Location: 2 DELAMERE BILLINGHAM

Background

5.1 This application was considered at the October meeting of the planning Committee when it was deferred due to ongoing discussions.

The application and the site

5.2 The application site is a large modern dwellinghouse located in a large plot. To the north and south are similar large detached properties again on large plots. To the east is landscaping which forms the fringe of this part of the estate. The boundaries are formed by low estate type fencing which allows open views across the neighbouring plots.

5.3 It is proposed to extend the property to the rear to accommodate a single storey garden room and WC to the rear with a balcony above which also projects beyond the garden room on pillars. The submitted plans show that the balcony will serve a bedroom and French Doors are shown inserted to connect the two. A spiral staircase will also allow access from the garden.

5.4 The application is part retrospective and the plans submitted differ from what has been erected on site. The spiral staircase is shown emerging from below the balcony on the submitted plans whilst it has actually been attached to the rear elevation. The balcony wall is lower and has a coping and railings but no pillars on the submitted plans but has been erected slightly higher with no coping and pillars. Discussions on site with the applicant also indicate that he no longer wants French Doors connecting the balcony to the bedroom instead a window is proposed.

Planning Background

5.5 In October 2007 planning permission was granted for the erection of a garden store extension and the provision of a rear first floor balcony. The proposed single storey store was to be located on the south east side of the building. The balcony projecting some 2.4m from the rear of the property was to be located on the rear north east elevation of the building. It was to serve a bedroom with French Doors inserted to connect the two. A condition on the approval required the provision of a screen on the side facing the neighbour (1 Delamere). (H/2007/0560)

5.6 In June 2008 a complaint was received that the approved garden store was not being erected in accordance with the approved plans. The matter was investigated and it was confirmed that the garden store was not in accordance with the approved plans. The applicant was advised to submit revised plans for consideration and these have recently been received, neighbours have been re-notified and the amended plans are under consideration.

5.7 In September 2008 however a further complaint was received that the approved balcony was not being erected in accordance with the approved plans. The matter was investigated and again it was confirmed that the balcony was not in accordance with the approved plans. Given the nature of the deviations from the approved plans the applicant was advised that the alterations could not be considered as an amendment to the original approval. The applicant was advised to stop work and either return the balcony to that approved or to submit a retrospective application to seek the retention of the unauthorised works.

5.8 A separate investigation has also been undertaken by the Council's Building Control Section.

Publicity

5.9 The application has been advertised by neighbour notification (2). The time period for representations expires on 21st October 2008.

5.10 At the time of writing a single letter of objection from the occupier of a neighbouring property had been received. The writer raises the following issues:

- Structure unduly large, aesthetically unpleasing and out of character.
- Loss of light
- Loss of privacy to lounge and garden.
- Given its size it will be used as an entertainment space, accommodate large numbers of people resulting in noise pollution and loss of privacy.
- Staircase is out of keeping. Noise and loss of privacy from people using the staircase.
- Shell of structure and ground floor room has been constructed over existing drains. Concrete base has been erected over the existing drains. Concerned at quality of works and impacts on the drainage system. Do the works conform to the building regulations?
- Lack of compliance with Health & Safety regulations during the build.
- Blatant disregard for the local planning laws is unacceptable.
- Request council rejects amended application and takes immediate enforcement action to remove the unauthorised works.

Copy letters G

Consultations

5.11 The following consultation response have been received.

Parish Council - No comments to make

Planning Policy

5.12 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Hsg10: Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

Planning Considerations

5.13 The main issues are considered to be design and the impact on the amenity of adjacent properties.

DESIGN

5.14 The proposed alterations are located to the rear of the property and are seen in the context of the larger main house. Strictly in terms of their design and appearance the proposals are considered acceptable.

IMPACT ON THE AMENITY OF ADJACENT PROPERTIES

5.15 The policies of the existing Local Plan require amongst other things that in considering applications account should be taken of the impact of the development on the amenities of the occupiers of adjoining or nearby properties. Current policy guidance states that in the case of semi-detached or detached dwellings a two-storey rear extension with a projection of up to 2.5 m will normally be permitted provided that it is offset a significant distance from the neighbouring property (typically half the property width). A larger extension may be allowed where a greater degree of separation exists. In the current case the proposed extension will project 5.2m from the part of the rear wall of the property to which it is attached and would be some 5.5 to 6.5 metres from the boundary with the neighbouring property to the west. The main rear elevation of the closest neighbouring property most directly affected (1 Delamere) is oriented to face away from the applicant's property and it faces the site with its gable elevation which at ground floor has two small secondary lounge windows and a side elevation window of a rear conservatory, with two small windows at second and third storey level. Given the separation distances and the orientation of the properties it is considered difficult to maintain that the proposal would have a significant impact on the amenity of this neighbour in terms of loss of light or outlook from their house. Views towards the other immediate

neighbour (3 Delamere) are largely screened by the existing house and given the separation distances is not considered that the proposal will unduly affect the amenity of this neighbour in terms of loss of light, outlook, privacy, noise on any issues relating to over dominance.

5.16 The balcony however will be located close to the garden boundary and potentially its use would have an intrusive impact on the gardens particularly of the immediate neighbour (1 Delamere). Any individual on the balcony, or the associated staircase, would enjoy extensive views over the rear gardens of the neighbouring properties and towards the side of the neighbouring house. Whilst a small balcony projecting 2.4m and serving a bedroom, with a side screen was considered acceptable it is considered that the larger balcony now proposed projecting 5.2m with separate access from the garden would be used differently and more intensively, and that any adverse affect in terms of overlooking, general disturbance including noise and intrusion would be consequently be amplified. In its current form the proposal could not be supported.

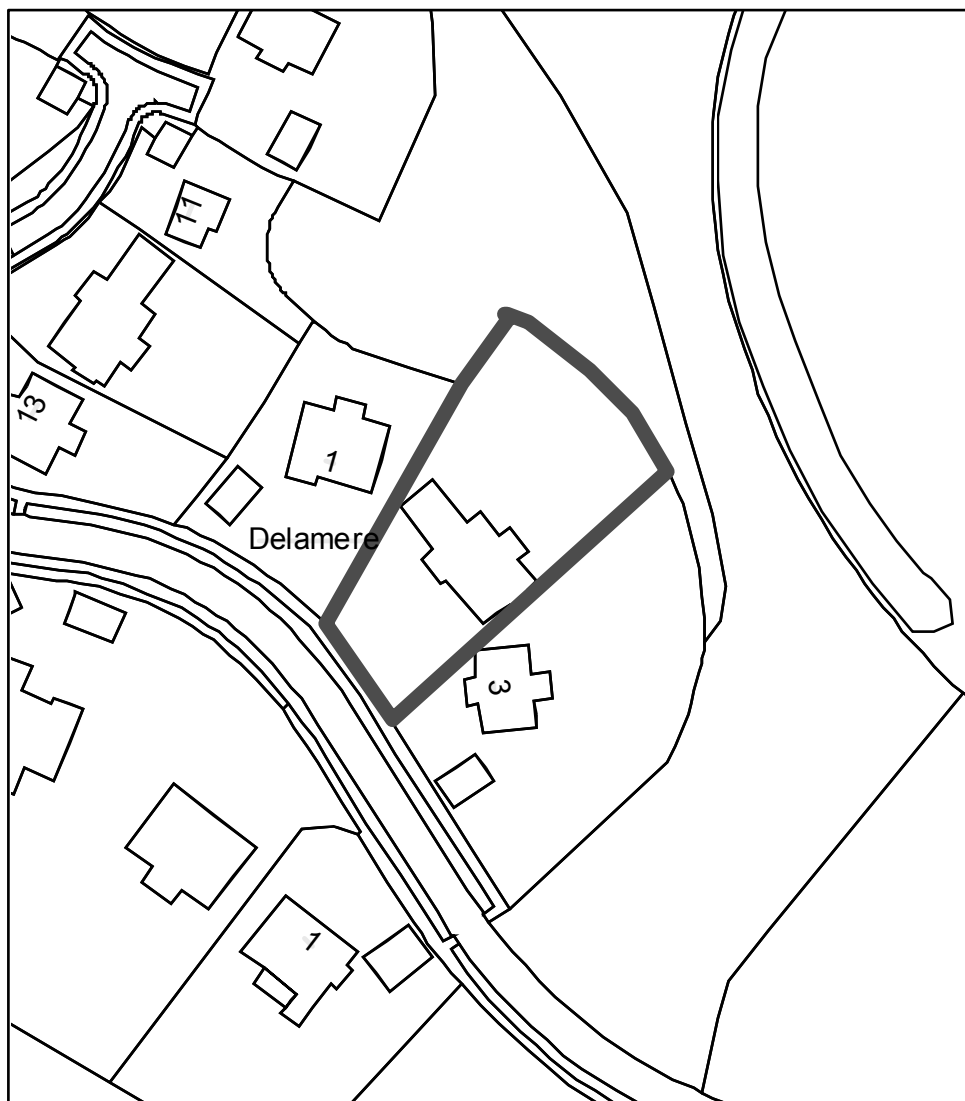
5.17 At the time of the last report Building Control were investigating the structure and in particular whether it was capable of being retained. Building Control have confirmed that with remedial works, underpinning and the diversion of a drain, the structure could be retained.

5.18 In order to address the concerns in relation to the impact on the neighbour the applicant has been asked to consider amendments to the proposal. This would involve re-siting the stair to the south east side of the structure and the erecting a screen wall on the side closest to the neighbour. These amended drawings could also address the deviations from the submitted plans referred to above. The comments of the applicant are awaited.

Other Matters

5.19 The objector raises various matters which stray into other regimes of control. In particular the quality of the works the impact on the drains, whether the works comply with the building regulations and whether in undertaking the works the builders are complying with the relevant Health & Safety Legislation. The Council's Building Control Section have undertaken a separate investigation into alleged breaches of the building regulations including the impact on the drains and it is understood that their concerns can be addressed through remedial works. In relation to issues relating to alleged breaches of Health & Safety Regulations this is essentially a matter either for the applicant, his builder or the Health & Safety Executive.

RECOMMENDATION – update to follow

2 Delamere

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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:1,000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO •	REV

No: 6
Number: H/2008/0558
Applicant: Mr M Ashton Hillcrest Grove Elwick Hartlepool TS27 3EH
Agent: Business Interiors Group 73 Church Street
HARTLEPOOL TS24 7DN
Date valid: 17/09/2008
Development: Variation of planning conditions to allow opening of caravan and camping park and clubhouse between 1st April and 31st January and removal of condition to provide an acoustic fence
Location: ASHFIELD FARM DALTON PIERCY ROAD
HARTLEPOOL HARTLEPOOL

The Application and Site

6.1 Ashfield Farm is located approximately 1 km to the north east of Dalton Piercy and consists of a smallholding. The site adjoins a paddock along its eastern boundary, also in the applicant's ownership. The overall holding is part of a cluster of holdings which are being used for various commercial and rural related enterprises. The site is accessed from Dalton Back Lane via a track some 300m in length.

6.2 The application site is an operating touring caravan and camping site, which was approved by Members on the 8th August 2006. This was approved with some 13 conditions including that the site be restricted to the months of March to October, and the requirement for the erection of an acoustic fence in a location to be agreed. The site has been operational since March 2008.

6.3 An application to provide a licensed clubhouse on the site was refused by Members on the 1st August 2007, however was subsequently allowed on appeal in 13th December 2007, subject to conditions.

6.4 The application proposes to vary the opening of the touring caravan and camping site, including clubhouse to between the 1st April to 31st January inclusive. The application also proposes to remove the condition on the approval which requires an acoustic fence to part of the site boundary.

Publicity

6.5 The application has been advertised by way of neighbour letters, site notice and press notice. To date, there have been 2 letters of no objection and 1 letter of objection.

6.6 The concerns raised are:

1. The clubhouse is being used to sell alcohol to non residents of the site.
2. This is in direct competition to the village pubs in Elwick.

3. The opening as a pub is illegal and they are breaking the law and putting their license in jeopardy.

Copy letter E

6.7 The period for publicity expires on the 28th November 2008.

Consultations

6.8 The following consultation replies have been received:

Public Protection : No objection

Economic Development : No objection, particularly as it will extend the visitor season to Hartlepool and therefore the visitor economy at a potentially quieter period.

Traffic & Transportation : There are no major highway implications with this application.

Dalton Piercy Parish Council : Concerns for the following reasons:

1. There is minimal possibility that caravanners would be on the road in the months asked for in the change of opening hours.
2. How would it be commercially viable to open in those months.
3. The club house should be restricted to those who are resident onsite, there are suggestions that it is being used as a pub.
4. As a result of the above the council would like to see the hours remain as they are.

Planning Policy

6.9 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments

where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Rur1: States that the spread of the urban area into the surrounding countryside beyond the urban fence will be strictly controlled. Proposals for development in the countryside will only be permitted where they meet the criteria set out in policies Rur7, Rur11, Rur12, Rur13 or where they are required in conjunction with the development of natural resources or transport links.

Rur16: States that proposals for outdoor recreational developments in rural areas will only be permitted if the open nature of the landscape is retained, the best agricultural land is protected from irreversible development, there are no new access points to the main roads, the local road network is adequate, the amount of new building is limited and appropriately designed, sited and landscaped, there is no disturbance to nearby occupiers, countryside users or nature conservation interest and adequate car parking can be provided. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

Rur7: Sets out the criteria for the approval of planning permissions in the open countryside including the development's relationship to other buildings, its visual impact, its design and use of traditional or sympathetic materials, the operational requirements of agriculture and forestry and viability of a farm enterprise, proximity of intensive livestock units, and the adequacy of the road network and of sewage disposal. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

To10: States that proposals for touring caravan sites will only be approved where they do not intrude into the landscape and subject to highway capacity considerations, the provision of substantial landscaping and availability of adequate sewage disposal facilities.

Tra15: States that new access points or intensification of existing accesses will not be approved along this road. The policy also states that the Borough Council will consult the Highways Agency on proposals likely to generate a material increase in traffic on the A19 Trunk Road.

Planning Considerations

6.10 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan outlined above and in particular the impact of the proposals upon neighbouring properties and surrounding area in terms of its affect on the local highway network and noise and disturbance.

6.11 Planning Policy Statement 7 (Sustainable Development in Rural Areas) is supportive of tourism development in countryside areas providing that this is not to

the detriment of the area. In this instance it is considered that the operating of the site for an additional 2 months of the year would not have an adverse affect on the surrounding area, this is expanded on in the remainder of the report.

Highways Issues

6.12 The Traffic and Transportation team have confirmed that there is no major highway implications with this application, therefore there are no objections on highway grounds to the variation of the conditions.

Noise and Disturbance

6.13 The proposed variation of condition to allow the operation of the site between April to January inclusive is not considered to have a detrimental affect on the surrounding area in terms of noise and disturbance. The site is surrounded by mature hedging and there is a degree of separation between the site and neighbouring properties, which are scattered around the vicinity. Given that the site is approved to be operational between March to October, and no objections have been received in terms of noise and disturbance since it has become operational (March 2008), it is considered difficult to substantiate an objection to the additional 2 months proposed. Public Protection has not objected to the variation of this condition.

6.14 With regard to the provision of an acoustic fence the site has been operational since March 2008 and no objections have been received by Public Protection in terms of noise and disturbance. Public Protection have no objection to this acoustic fence not being provided and given the amount of screening around the site and separation distances between the site and surrounding properties it would be difficult to sustain an objection to the removal of this condition.

Other Issues

6.15 Concerns have been raised regarding the viability of the site during the additional months proposed, however the Council's Tourism officer has assessed the proposal and has no objection, particularly as it will extend the visitor season to Hartlepool and therefore the visitor economy at a potentially quieter period.

6.16 Concerns have been expressed by both the objector and the Dalton Piercy Parish Council in terms of the clubhouse being used as a public house. There is a condition imposed on the licensed clubhouse which restricts the use of the premises to only resident occupants of the touring caravans and tents on the site at any particular time. It should be acknowledged that Public Protection and The Police have visited the site on a number of occasions; as a complaint was received from the same objector as in this case; and they have not found any evidence to suggest the clubhouse is not being run as the condition/license specifies.

Conclusion

6.17 Having regard to the policies identified in the Hartlepool Local Plan 2006 above and in particular consideration of the effects of the development on the amenity of

surrounding area the development is considered satisfactory. Given that the press notice does not expire until the 28th November 2008 it is advised that Members give authority to the Development Control Manager for the final decision.

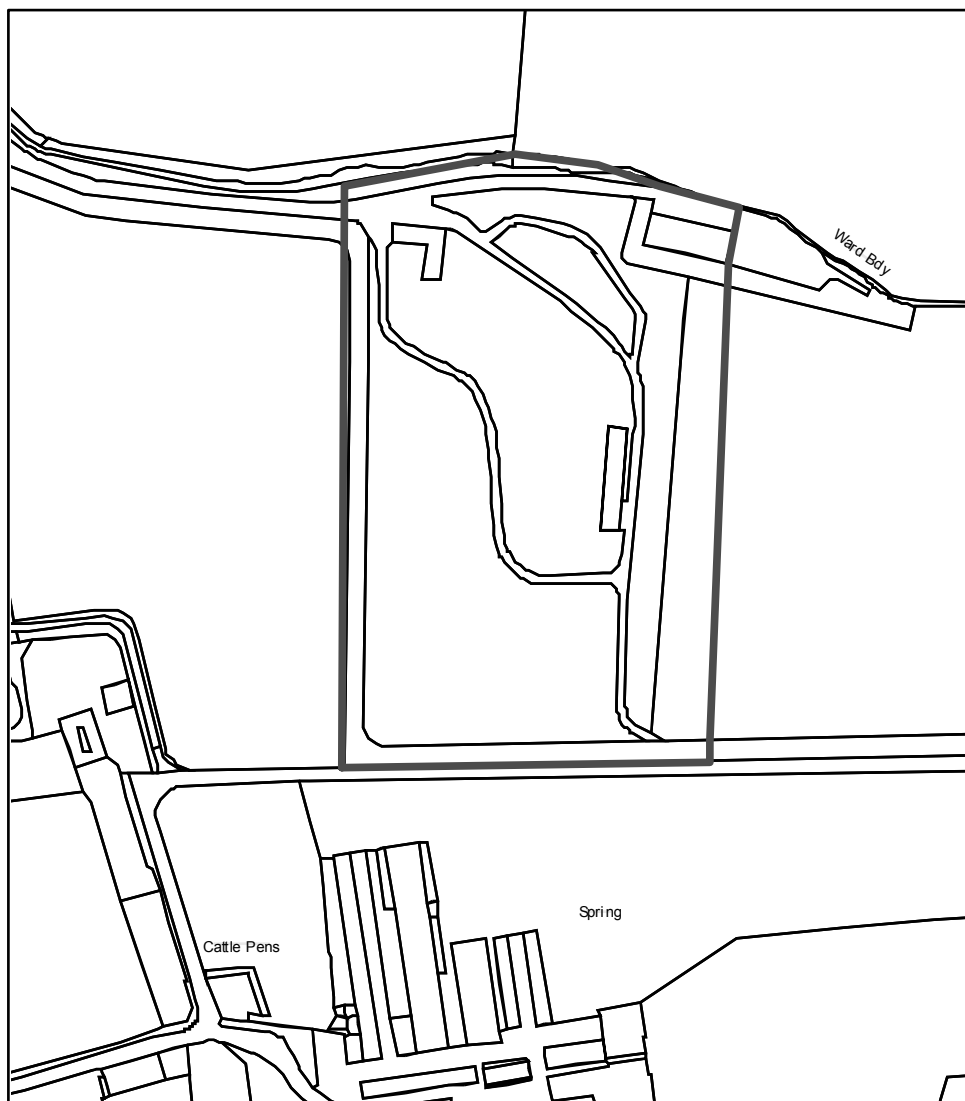
RECOMMENDATION – Minded to approve the application subject to the conditions below, however due to outstanding publicity delegate final decision to the Development Control Manager.

1. All planting, seeding or turfing comprised in the previously approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
2. The development hereby approved shall be restricted to the part of the site outlined in red.
For the avoidance of doubt.
3. The development hereby approved shall be used as a touring caravan site and camp site only and under no circumstances for the siting of static caravans.
In order to protect the visual amenity of the surrounding area.
4. Prior to the development hereby approved being brought into use details of (i) signage to be erected on the site (and retained) and (ii) promotional literature for the operation shall be agreed with the Local Planning Authority in order to promote safe routes to and from the site for caravan related traffic. The route restrictions in question shall be as follows:
From the north - No restriction
To the north - Restriction as follows. Turn right out of the site to Elwick Road crossroads. Turn right along Elwick Road. Left along Dunston Road. Left along Hart Lane. Left along A179 to A19 junction.
From the south - Restriction as follows - From A689 left along Dalton Back Lane through Dalton Piercy to the site
To the south - Restriction as follows - Through Dalton Piercy to A19.
In the interests of highway safety.
5. The development hereby approved shall incorporate the various provisions detailed in the applicant's access statement received 27 July 2006, under application reference H/2006/0333.
In order to ensure that appropriate provision is made for disabled clients.
6. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the LPA. The drainage works shall be completed in accordance with the details and timetable agreed and shall thereafter be retained in working order, unless otherwise agreed in writing by the Local Planning Authority.
To ensue the site is adequately drained.
7. Notwithstanding the submitted details final details of the proposed surface treatment of the access road into the site and details of the proposed sewage

treatment plant shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

To ensure a satisfactory form of development.

8. The touring caravan and campsite hereby approved shall only be open to the public between the 1st April and 31st January inclusive and shall be closed at all other times.
In the interests of visual amenity and the site is not considered suitable for occupation throughout the year.
9. The licensed clubhouse for the touring caravan and camp site permitted shall not be used by members of the general public and shall not be used by anyone other than the resident occupants of touring caravans and tents on the site at any particular time and shall be used only for that purpose and no other.
In the interests of the amenities of the occupants of neighbouring properties and the surrounding area.
10. The license clubhouse shall not be open other than at the times that the touring caravan and camp site is in operation and shall not be open other than between the months of April to January inclusive between the hours of 11:00 hours and 23:00 hours Mondays to Saturdays and between 11:00 hours and 22:00 hours on Sundays.
In the interests of the amenities of the occupants of neighbouring properties and the surrounding area.
11. Customers of the licensed clubhouse shall not purchase or consume drink or food or other refreshments anywhere other than within the area of the licensed clubhouse facility shown hatched on the extract from drawing ref: BIG/IC/MA/254-201 that is attached to the appeal decision under application reference H/2007/0244 and no food or drink shall be consumed by customers anywhere else within the building.
In the interests of the amenities of the occupants of neighbouring properties and the surrounding area.
12. None of the land surrounding the clubhouse shall be used as an amenity area, beer garden or any form of outside drinking/eating area without the prior written consent of the Local Planning Authority.
In the interests of the amenities of the occupants of neighbouring properties and the surrounding area.
13. No music shall be piped or relayed to the outside from within the building.
In the interests of the amenities of the occupants of neighbouring properties and the surrounding area.

Ashfield Farm

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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:2,000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2008/0558	REV

No: 7
Number: H/2008/0604
Applicant: Mr Graham Frankland Civic Centre Victoria Road
Hartlepool TS24 8AY
Agent: SMC Parr Mr Hardip Chana 133 Newhall Street
Birmingham B3 1SF
Date valid: 09/10/2008
Development: Outline application for remodelling of school
Location: DYKE HOUSE COMPREHENSIVE SCHOOL
MAPLETON ROAD HARTLEPOOL

The Application and Site

7.1 The application site is situated within the existing grounds of Dyke House Comprehensive School. The site is currently in use and the application boundary comprises the secondary school buildings towards the Southern half of the area associated with the school. The site comprises two to three storey buildings surrounding two internal courtyards. The proposal is to remodel the school, under the Building Schools for the Future programme; this would include the demolition of the 6th form and science blocks, to the east of the site. No details are proposed at this stage as the application is in outline form with all matters reserved for a future application.

7.2 Primarily the boundaries are formed from gardens backing onto the site separated by Palisade security fencing with little vegetation in the immediate proximity. The site is surrounded by two storey housing on the Northern, Western and Eastern boundaries. The Northern half of the site is primarily used as external sports area, this is outside the application boundary.

7.3 Access to the site currently has three vehicular access points, leading from Raby Road, Mapleton Road and Milbank Road, however both pedestrian and vehicular access are combined into the site and there is very little distinction between the two.

7.4 Currently there are two main designated parking areas. The access from Raby Road leads to a parking zone North West of Dyke House which surrounds the North West corner of the School. Further parking is available on the Southern frontage of the School accessed from Mapleton Road.

Publicity

7.5 The application has been advertised by way of neighbour letters (238), site notices and press notice. To date, there have been 13 letters of no objection

The period for publicity has expired.

Consultations

7.6 The following consultation replies have been received:

Public Protection	No objection, however should any car parking be provided adjacent to any residential properties an acoustic barrier and a landscape buffer zone should be provided.
Property Services	No objection
Northumbrian Water	No objection subject to a condition regarding disposal of surface water from the site.
Traffic & Transportation	No objection subject to construction access from via Millbank Road.
Engineering Consultants	No objection subject to a condition regarding potential contaminants on site.
Children's Services	Supports the scheme
Community Safety Officer	No objection, however security of the site should be considered
Environment Agency	No objection subject to a condition regarding drainage.
Sport England	No objection subject to a condition regarding community use of the site.

Planning Policy

7.7 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Hsg10: Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

Planning Considerations

7.8 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan outlined above and in particular the impact of the proposals upon neighbouring properties in general. Highway safety, flood risk and any potential affect on bats also need to be considered.

7.9 The site comprises an existing school therefore the scheme to remodel the site is considered acceptable in principle in terms of the policies and proposals contained within the adopted Hartlepool Local Plan 2006.

7.10 The application is limited in terms of the information provided given it is an outline application with all matters reserved, however the intention is that there will be a minimal amount of new construction on the site, a small amount of demolition and some enhancements to the external façade of the building and internal facilities.

7.11 It is not anticipated that the remodelling would have a significant detrimental affect on the surrounding neighbouring properties, however as the details of the works would be subject to a separate application this can be assessed in more detail at the appropriate time.

7.12 The site does not encroach into the playing fields/area of the school and Sport England does not object to the proposal. Dyke House already offers a degree of community use on the site, however Sport England have requested that the submission of a community use agreement is conditioned for this project to ensure a mechanism for community sports facilities.

Highway Safety

7.13 The Traffic and Transportation team have assessed the scheme and have no objection, however have stated that access for construction traffic should only be taken from Milbank Road, this can be controlled by condition.

Bats

7.14 The application has been accompanied by a bat survey, which has been assessed by the Council's Ecologist. There is a small bat roost in the south west corner of the main building, it is not considered that these proposals would affect this roost, and therefore there are no objections in terms of the potential affect on bats.

Flood Risk

7.15 The application site lies within flood zone 1 which is the least likely zone to flood, however given the size of the site the application has been accompanied by a flood risk assessment. The Environment Agency have assessed the flood risk assessment and does not object to the proposal. Both the EA and Northumbrian Water have requested that details of the disposal of surface water to be submitted; however this can be controlled via condition.

Other Issues

7.16 Prior to the submission of the application the applicant gave the local community the opportunity to comment on the proposals to identify any issues with the proposal. The public consultation process took the form of letters to residents advising them of the proposal and the opportunity to view them online or at a presentation at the school (on 2 dates). 6 comments were received, all issues raised were relating to pedestrian and traffic flow and its impact on the road immediately adjacent. As the application is in outline form these concerns can be examined in more detail with the submission of a reserved matters application which would have detailed plans for the school. It should also be noted that the Traffic and Transportation team have no objection to the scheme.

Conclusion

7.17 Having regard to the policies identified in the Hartlepool Local Plan 2006 above and in particular consideration of the effects of the development on the amenity of neighbouring properties and the streetscene in general the development is considered satisfactory.

RECOMMENDATION – APPROVE subject to the following conditions.

1. Application for the approval of the reserved matters referred to below must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates: (a) the expiration of five years from the date of this permission; or (b) the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
To clarify the period for which the permission is valid.
2. Approval of the details of the access, appearance, landscaping, layout and scale (herein after called the "reserved matters") shall be obtained in writing from the Local Planning Authority.
To ensure the site is developed in a satisfactory manner.
3. Any proposed building shall not exceed 3 storeys in height, unless otherwise agreed in writing by the Local Planning Authority.
In the interests of visual amenity.
4. Any alterations to the car parking arrangements shall include details of acoustic barriers and landscaped buffer zone(s), unless otherwise agreed in writing by the Local Planning Authority.
In the interests of the amenities of the occupants of neighbouring properties.
5. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.
To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.
6. The development hereby approved shall incorporate 'secured by design'

principles. Details of proposed security measures shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.

In the interests of crime prevention.

7. Prior to the commencement of the use of the refurbished school a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of pricing policy, hours of use, access by non-school users/non-members, management responsibilities and include a mechanism for review. The approved scheme shall be implemented upon commencement of use of the development, unless otherwise agreed in writing by the Local Planning Authority. To secure community use on the site.
8. For the avoidance of doubt construction access should be taken from Milbank Road only, unless otherwise agreed in writing by the Local Planning Authority. In the interests of highway safety.
9. 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation

objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 10 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

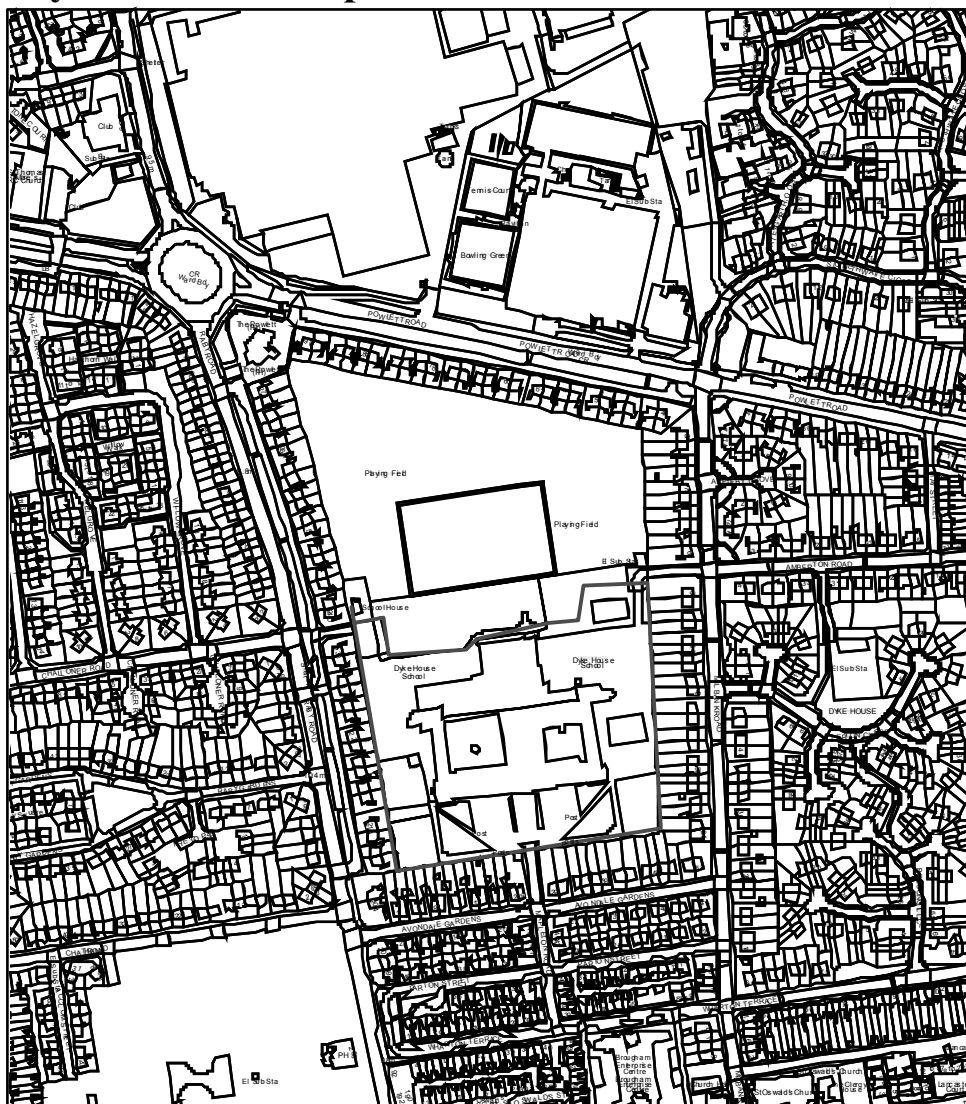
This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy GEP18 of the adopted Local Plan (2006)].

Informative

The flood risk assessment states that there will be no change to the site's drainage regime as a result of the redevelopment, but exact details are unavailable at this stage.

Dyke House Comprehensive School



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:4,000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2008/0604	REV

No: 8
Number: H/2008/0616
Applicant: Mr Adel Atfi OXFORD ROAD HARTLEPOOL TS25 5RH
Agent: Mr Adel Atfi 132 OXFORD ROAD HARTLEPOOL TS25 5RH
Date valid: 13/10/2008
Development: Variation of condition 2 of planning permission H/2006/0839 to allow opening on a Sunday between the hours of 10am and 11pm
Location: 132 OXFORD ROAD HARTLEPOOL HARTLEPOOL

The Application and Site

8.1 The site to which this application relates is a single storey hot food takeaway unit at the western end of a terrace of two storey commercial properties upon Oxford Road close to the designated Oxford Road Local Centre. The rear yard of the unit adjoins the south elevation of an end terraced residential property on Marlborough Street.

8.2 The area is predominantly characterised by terraced two storey residential properties with a mix of residential and commercial properties fronting Oxford Road. To the front of the terrace of commercial properties, within which the application site is located, is a parking bay which is unrestricted in terms of a Traffic Regulation Order.

8.3 This application seeks consent under Section 73 of the Town and Country Planning Act 1990 to vary condition 2 of the above mentioned planning permission to allow opening on a Sunday between the hours of 10am and 11pm.

8.4 The applicant has also questioned whether, in the terms of the planning permission, he can operate a delivery service from the premises, including Sundays without the need for planning permission.

8.5 The planning history of the site relating to the use of the premises as a hot food takeaway and recent complaints regarding the premises are set out below.

Planning History

8.6 The application site was granted planning permission by the Planning Inspectorate in July 2007 for the change of use of the premises to a hot food takeaway on appeal (APP/H0724/A07/2039548) following the refusal of application H/2006/0839 by the Planning Committee.

8.7 The application was refused by the Council for the following reasons:-

- i) The application site lies outside the defined Oxford Road local centre identified under Policy Com5 of the adopted Hartlepool Local Plan. It is considered that uses of this type should be located within the local centre to ensure the vitality

and viability of the centre is retained and to ensure that related car parking does not spill over to affect housing adjoining the centre.

- ii) It is considered that vehicles visiting the proposed use could park in adjoining streets which are predominantly residential in character or outside houses on the opposite side of Oxford Road and that noise and general disturbance from the comings and goings of the users of those vehicles could be detrimental to the amenities of the occupiers of those houses particularly at times of the day when they could reasonably expect the peaceful enjoyment of their homes contrary to policies GEP1 and Com12 of the adopted Hartlepool Local Plan.
- iii) Oxford Road is a heavily trafficked bus route. It is considered that the regular comings and goings of vehicles using the proposed takeaway could be detrimental to highway safety and the free flow of traffic contrary to policies GEP1 and Com12 of the adopted Hartlepool Local Plan.
- iv) It is considered that the proposed development could in itself and in conjunction with other developments of this type recently approved on appeal (143 Oxford Road application H/2006/0502) and currently the subject of appeal (122 Oxford Road application H/2006/0565) should they proceed lead to a proliferation of such uses, encourage youths to congregate, and result in additional litter and general disturbance to the detriment of the amenities of the occupiers of houses on the opposite side of Oxford Road and nearby streets contrary to policies GEP1 and Com12 of adopted Hartlepool Local Plan.

8.8 The Inspector took the view that the proposed use would not adversely affect the vitality and viability of the Oxford Road Centre. He considered that the re-use of the vacant retail outlet would only reinforce the viability of the centre as a local destination and would not create an unacceptable concentration of takeaway uses in the area. A copy of the Inspectors decision letter is attached below.

8.9 The Inspector also concluded that the proposal would lead to parking congestion or any other conditions likely to give rise to detrimental highway safety issues.

8.10 In making his decision the Inspector considered that a closing time of 23:00 hours, which could be suitably controlled by a planning condition, would prevent any undue level of disturbance at unsocial hours. Condition 2 of the approval reads:-

The use hereby permitted shall not open to customers outside the hours of 8:00 to 23:00 Mondays to Saturdays and at no other time on Sundays. Bank or Public Holidays.

8.11 The Inspector makes specific reference to the condition restricting Sunday opening, after discussing the closing times on the condition he states:-

'Whilst, I am less convinced of the need to prevent opening on Sundays, as suggested by the Council, I note that the recent appeal decision in respect of a similar use at 143 Oxford Road imposes such a restriction. In the interests of consistency, I have done the same.'

8.12 Complaints have been received through the ward Councillor regarding the current hours of operation of the premises outside those hours approved by the Planning Inspector in particular opening on a Sunday and operating after 11pm during the week.

8.13 This matter has been investigated by officer's of the Council who have visited the property a number of times on a Saturday and Sunday. The visits have confirmed that on at least two occasions the premises has been open to the public on Sunday and that at least one occasion the premises has been open to the public past 11pm. The manager of the hot food takeaway has been informed of these breaches of planning condition both verbally and in writing. The Ward Councillor has been informed of this.

Publicity

8.14 The application has been advertised by way of neighbour letters (43) and a site notice. To date, there have been 6 letters of objection received.

8.15 The concerns raised are:

- 1 *'I live opposite and get a lot of litter in my garden from shops and this wont help matters.'*
- 2 *'It makes another gathering place for teenagers to congregate as other shops seem to attract gangs'*
- 3 *'I don't see why I have to put up with litter, car doors slamming late at night and the general noise and disturbance that goes with the shop who think they can open and close when they feel like it.'*
- 4 *'They have gone back with the agreement with the Council, Planners' 'Sunday is a day of rest'*
- 5 *'Kids outside all night in gangs'*
- 6 *'When open noise from gangs at the end of the street and anti-social behaviour'*
- 7 *'My wife and myself object to this proposal because of the litter, noise elements (car doors slamming, engines revving, rowdy behaviour at unsociable hours) it is bad enough having to put up with the shop opening beyond its permitted hours six days a week, let alone seven days.'*
- 8 *'We originally objected to it being open as it is directly across the road (oxford) from Peebles Avenue (Already similar pizza shop 20m down road). Groups already hang around the shop through the week, don't want this issue on a Sunday, litter from shops increased and appears in front garden (although no proof of origin, increased since opening). P.S. Shop sign is an eyesore and does not match with surrounding area. Complained about this on two occasions and was promised call backs, which need happened'.*

8.16 The period for publicity expires before the meeting.

Copy Letters B

Consultations

8.17 The following consultation replies has been received:

Head of Traffic and Transportation - Given the hours the premises already has it is very difficult to sustain an objection on highway grounds. There would also be less vehicle movements on a Sunday.

Head of Public Protection - Comments awaited.

Planning Policy

8.18 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com12: States that proposals for food and drink developments will only be permitted subject to consideration of the effect on amenity, highway safety and character, appearance and function of the surrounding area and that hot food takeaways will not be permitted adjoining residential properties. The policy also outlines measures which may be required to protect the amenity of the area.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Planning Considerations

8.19 The main considerations in this instance is the appropriateness of the proposed extension to the hours of opening to the policies and proposals held within the Hartlepool Local Plan, in particular the effect upon the character of the area, highway safety and the effect upon the amenity of the residents of the surrounding residential properties.

Character

8.20 As the principle of the hot food takeaway use has already been established at this site and the premises has a lawful use to operate 6 days of the week it is not considered that the opening of the premises on a Sunday will lead to a detrimental effect upon the character of the locality.

Highway Safety

8.21 The Planning Inspector, when determining the appeal for the use of the property as a hot food takeaway, concluded that the use would be unlikely to lead to parking congestion or any other conditions likely to give rise to problems of safety for users of the highway.

8.22 It is anticipated that the vehicle movements along both Oxford Road and the surrounding side streets on a Sunday would not be as significant as other days of the week. In light of this, the Inspector's comments and that the premises already has a lawful use to operate until 11pm every other day of the week it is not considered that a refusal could be sustained on highway safety grounds in this instance. The Head of Traffic and Transportation has endorsed these views.

Outstanding Matters

8.23 The comments of the Head of Public Protection are awaited regarding the effect of the proposed additional hours of operation upon the amenity of the occupants of the surrounding residential properties. Legal advice is being sought regarding the applicant's question regarding the use of premises for delivery purposes. In addition the period of publicity has yet to expire. In light of these outstanding issues it is considered necessary to create an update report prior to the meeting.

RECOMMENDATION – Update report will follow.

132 Oxford Road

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HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11/11/08
	SCALE 1:1,000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO .	REV

Copy of Inspector's decision letter for appeal APP/H0724/A/07/2039548 for the change of use of 132 Oxford Road to a hot food takeaway.



Appeal Decision

Site visit made on 3 July 2007

by Graham E Snowden BA BPhil DipMgmt MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@
planning-inspectorate.
gov.uk
Date: 5 July 2007

Appeal Ref: APP/H0724/A/07/2039548
132 Oxford Road, Hartlepool TS25 5RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Hassan Ali Alfaham against the decision of Hartlepool Borough Council.
- The application ref: H/2006/0839 dated 10 November 2006, was refused by notice dated 26 January 2007.
- The development proposed is the change of use to hot food takeaway.

Decision

1. The appeal is allowed and planning permission is granted for the change of use to hot food takeaway at 132 Oxford Road, Hartlepool TS25 5RH, in accordance with the planning application ref: H/2006/0839, dated 10 November 2006 and the plans submitted therewith, subject to the following conditions:
 - (i) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - (ii) The use hereby permitted shall not be open to customers outside the hours of 08.00 to 23.00 Mondays to Saturdays and at no other time on Sundays, Bank or Public Holidays.
 - (iii) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and odours from the premises shall be submitted to and approved in writing by the local planning authority. The scheme, as approved shall be implemented before the use commences and all equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

Reasons

2. The appeal property is located in a small parade of commercial properties, lying on the north side of Oxford Road, just to the east of the area designated in the Hartlepool Local Plan (Local Plan) as the Oxford Road Local Centre. Provision is made under Local Plan Policy Com5 for Class A5 uses to be located in such centres, but does not prohibit such uses outside these centres. There is no evidence before me to suggest that allowing the present proposal would adversely affect the vitality and viability of the Oxford Road Centre. The centre, itself, which is of limited extent, is fully occupied and includes a post office, small supermarket and several retail outlets. The appeal property is immediately adjacent and, in my view, the re-use of a vacant retail outlet here could

DEPT. OF REGENERATION & PLANNING
BRYAN HANSON HOUSE, HANSON SQUARE

- 9 JUL 2007

HANDED TO

REPLY

File #

Appeal Decision APP/H0724/A/07/2039548

only reinforce the viability of the centre as a local destination.

3. There is a lay-by within the carriageway immediately outside the parade in which the appeal property is located and the adjacent commercial outlets are unlikely, in my view, to generate parking at a time when the proposed takeaway would be at its busiest. I do not consider, therefore, that the proposal would lead to parking congestion or any other conditions likely to give rise to problems of safety for users of the highway.
4. For the same reasons, I consider it unlikely that the use would give rise to levels of parking on Marlborough Street, which would cause noise and disturbance to residents. On this matter, I note that the appellant intends a closing time of 23.00 hours and I believe that this, which can be ensured through the imposition of a condition, would prevent any undue level of disturbance at unsocial hours. Whilst, I am less convinced of the need to prevent opening on Sundays, as suggested by the Council, I note that the recent appeal decision in respect of a similar use at 143 Oxford Road imposes such a restriction. In the interests of consistency, I have done the same.
5. I have also imposed a condition requiring the approval of details and subsequent installation of measures to control the emission of fumes and odours from the premises. Whilst the Council suggests two conditions to cover this matter, I consider that the one condition, I have imposed, is adequate. The appeal property is single storey, whilst the adjacent premises are of two storeys, with a residential flat at first floor level. I am, nevertheless, satisfied that, although challenging, it should be possible to install a ventilation and extraction system, with a discharge point at a high level, which would not only be visually acceptable, but, if operated and maintained in a proper manner, would also minimise any odour nuisance to a satisfactory level.
6. In the light of the above, I consider that the proposal would not have an adverse effect on the living conditions of neighbours and, in this respect, would not conflict with the requirements of Local Plan Policies GEPI or Com12. I, therefore, conclude that the appeal should be allowed. In reaching this decision, I have taken into account all other matters raised, including local concerns relating to litter and anti-social behaviour. I am, however, not convinced that the proposal would exacerbate any such problems. I also do not consider that the proposed use would adversely affect the success of adjacent businesses nor, despite the other successful appeals at 122 and 143 Oxford Road, to which my attention is drawn, that it would lead to an unacceptable concentration of takeaway uses in the area.

G. E. Snowdon

INSPECTOR

No: 9
Number: H/2008/0583
Applicant: Mr Matt Holmes 11 The Vale Hartlepool
Agent: Cadlink Architectural Services Ltd 26 Mountston Close
HARTLEPOOL TS26 OLR
Date valid: 23/10/2008
Development: Erection of a detached garage to rear
Location: 7B HYLTON ROAD HARTLEPOOL

The Application and Site

9.1 The application site is the curtilage of 7b Hylton Road, a two storey detached dwelling which is currently under construction. The two properties of 7a and 7b Hylton Road were granted planning permission on appeal (Ref: APP/H0724/A/07/2043696) following the refusal of planning permission (Application ref: H/2006/0891).

9.2 To the immediate north of the application site are two-storey detached properties of differing sizes, to the south of the site Hylton Road is characterised by further detached properties. Immediately adjacent to the application site, however, is a detached single storey property. A large tree covered by a TPO (09) is located within the garden of 15 The Vale, immediately to the rear of the application site. There is an existing 2m high close boarded fence along the boundary with no. 9 Hylton Road with approximately 2.5m high planting along the boundary, within the curtilage of the neighbouring property.

9.3 The application proposes to erect a detached garage to the rear of the property, located 0.1m from the shared boundary with no. 9 Hylton Road, to the south-eastern corner of the curtilage.

9.4 The proposed detached garage measures 5.5m in length, and 2.92m in width. The applicant is proposing a hipped roof measuring 2.25m to the eaves, and a maximum height of 3.45m.

9.5 The garage is similar in terms of siting, design and size to that of the existing garage on the adjacent property at 7a Hylton Road.

9.6 The original application for the construction of the dwelling originally indicated the inclusion of a garage similar to that now proposed. The application was subsequently amended to remove the garage following comments from the Council's Arboricultural Officer regarding the potential for the garage to have a detrimental impact on the tree located to the rear of the site, within the curtilage of 15 The Vale.

Publicity

9.7 The application has been advertised by way of neighbour letters (5). To date, there have been three objections. The concerns raised are:

1. The garage will endanger the tree within the garden of 15 The Vale which is subject to a Tree Preservation Order.
2. The trees are higher than the existing house in the area, and any problems could pose a danger for residents.
3. The garage will be an eyesore.
4. The garage will be several feet above the existing fence within close proximity to the conservatory and lounge windows of 15 The Vale.
5. The original application stipulated that no garage should be built on the property within a given distance of the two trees. There has been no change since that application and the garage will have an effect on the tree and its roots.
6. Nothing has changed, the tree at 15 The Vale still has a preservation order.

The period for publicity expires 14 November 2008.

Copy Letters F

Consultations

9.9 The following consultation replies have been received:

Traffic & Transportation: No objection.

Planning Policy

9.10 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Hsg10: Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

Planning Considerations

9.11 The main planning considerations in this instance are policy, impact on the amenity of neighbouring properties in terms detrimental dominance issues, impact on the character of the existing dwelling, impact on the street scene, highways and trees.

POLICY

9.12 With regard to the policies identified in the Hartlepool Local Plan (2006) the proposal is considered satisfactory. It is considered that the physical relationship conforms to the guidance held within the Hartlepool Local Plan (2006), notably Supplementary Guidance Note 4.

IMPACT ON THE AMENITY OF NEIGHBOURING PROPERTIES

9.13 The siting of the garage is towards the southern boundary with no.9 Hylton Road, however, it will be located towards the end of the garden and will mostly affect only part of the garden of the neighbouring property, rather than the house itself. Additionally, a hipped roof is proposed and given its relatively modest size, along with the existing screening already afforded by close boarded fencing and hedging rising to a similar height on the neighbours side, it is not considered that it will unduly affect light towards the end of the garden or unduly affect this neighbour in terms of loss of light, outlook or in terms of any detrimental dominance.

9.14 It is considered that the existing screening in the form of 2.5m high close boarded fencing and the proposed hipped roof and size of the garage is sufficient to prevent any detrimental impact on the amenity of 15 The Vale.

IMPACT ON THE CHARACTER OF THE EXISTING DWELLING

9.15 The design of the proposed garage is in keeping with that of the existing dwelling under construction, with matching materials proposed. The proposal respects the character and detailing of the dwelling and the scale is considered appropriate for a dwelling of such a size. It is therefore considered that the proposal would not be dominant or out of proportion.

IMPACT ON THE STREET SCENE

9.16 The siting of the garage to the rear of the property means it is unlikely to have a detrimental impact on the street scene.

HIGHWAYS

9.17 Sufficient drive length in accordance with Hartlepool Local Plan (2006) guidelines for driveways has been ensured. The Council's Traffic and Transportation section have raised no objection. The Council's Traffic and Transportation section have stated that a drainage channel will be required to ensure surface water does not run onto the highway, and details of the proposed crossing must be agreed, must be carried out by a RAWSA credited contractor, and must be returned to the footpath at the expense of the applicant. Conditions are therefore recommended requiring these details to be agreed with the LPA prior to the commencement of the development.

TREES

9.18 A mature protected Sycamore tree is located in the rear garden of 15 The Vale an unprotected tree is also located in the rear garden of 14 The Vale. Concerns have been raised regarding the potential negative impact of the proposed garage on the trees. The Council's Arboricultural Officer has indicated that new BS guidelines indicate that the proposed garage will not be located within the Root Protection Zone of the trees (described in BS5837:2005) given that it is considered there will be no adverse effect on the trees.

9.19 The original concern with the proposed siting of a garage was that the BS quote formally referred to the minimum distance from the tree to any new development being equal to half the height of the tree at maturity. However, the revised British Standards is now calculated on a formula based on 12x the stem diameter which translates into an area rather than a diameter. The Council's Arboricultural Officer has assessed the scheme and raise no objection.

CONCLUSION

9.20 With regard to the policies identified in the Hartlepool Local Plan (2006) as above, and with consideration of the impact of the development on the amenity of neighbouring properties, its relationship to the existing dwelling and street scene in general, its impact in relation to highways issues and tree issues, the proposed development is considered satisfactory and therefore it is recommended that the Committee indicates it is minded to approve subject to no further objections.

RECOMMENDATION – MINDED TO APPROVE SUBJECT TO NO FURTHER OBJECTIONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The external materials used for this development shall match those of the existing building(s)
In the interests of visual amenity.
3. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no windows(s) shall be inserted in the elevation of the extension facing 9 Hylton Road without the prior written consent of the Local Planning Authority.
To prevent overlooking
4. No development shall take place until details of a drainage channel have been submitted to and approved in writing by the Local Planning Authority.
Thereafter the development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
In the interests of highway safety.
5. No development shall take place until details of the carriage crossing have been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The existing

carriage crossing must be returned back to the footpath at the expense of the applicant. Crossing works are to be carried by a RAWSA credited contractor. In the interests of highway safety.



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Scale: 1:1250

Date : 14/11/2008

Drg No: H/2008/0583

Drawn: JT

No: 2
Number: H/2008/0593
Applicant: Tesco Stores Ltd
Agent: Development Planning Partnership LLP 5-13 The Side
Newcastle upon Tyne NE1 3JE
Date valid: 02/10/2008
Development: Relocation of Petrol Filling Station
Location: TESCO SUPERMARKET LTD BURN ROAD
HARTLEPOOL

UPDATE

Since the original report was written the outstanding information has been provided by the applicant and the Environment Agency have withdrawn the two objections regarding groundwater and foul drainage. This has now been confirmed in writing and additional conditions have been provided and are incorporated below if the application is to be approved. An issue has however very recently arisen with regard to the advertising of this application among others and an update will be provided at the meeting.

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
4. Any trees/shrubs required to be planted in association with the development hereby approved, and which are removed, die, are severely damaged, or become seriously diseased, within five years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.
In the interests of visual amenity.
5. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.
6. Notwithstanding the submitted details, a scheme for the provision of additional planting to the west of the proposed petrol filling station shall be submitted to

and approved in writing by the Local Planning Authority.
In the interests of visual amenity.

7. The development hereby permitted shall not be commenced until such time as a scheme to install the underground tank(s) has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall include the full structural details of the installation, including details of: excavation, the tank(s), tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may be subsequently be agreed, in writing by the Local Planning Authority.
To protect groundwater quality in the area.
8. The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water in around the petrol station has been submitted to, and approved in writing, by the Local Planning Authority. The scheme shall be implemented as approved.
To protect the groundwater quality in the area.
9. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority. Roof water shall not pass through the interceptor.
To prevent pollution of the water environment.
10. Finished ground levels at the Petrol Filling Station shall be no lower than 7.0m AOD.
To reduce the risk from flooding
11. No development shall take place until the following matters have been addressed
 - A. Initial Conceptual Model
The development hereby permitted shall not be commenced until a desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on all receptors relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority.
 - B. Site Characterisation
An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

C. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

D. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

E. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition B, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition C, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition D.

F. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 10 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the

effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy GEP18 of the adopted Hartlepool Local Plan 2006.

No: 4
Number: H/2008/0495
Applicant: Chase Property Developments
Agent: Savills Mr T Adey Fountain Court 68 Fountain Street
Manchester M2 2FE
Date valid: 03/10/2008
Development: Application to allow additional floorspace to vary the size
of units and extend the range of goods that can be sold
Location: TEESBAY RETAIL PARK BRENDA ROAD
HARTLEPOOL HARTLEPOOL

UPDATE

This application appears on the main agenda at item 4. The recommendation was left open as a number of consultations were outstanding.

Consultations

The following additional consultation responses have been received.

Cleveland Police: No comments.

North East Assembly : The proposal is in general conformity with the Regional Spatial Strategy, subject to the local authority' s satisfaction that the scale of the development cannot be accommodated in the town centre, and that the vitality and viability of the town centre will not be compromised as a result of the development proposal. The NEA has raised other issues in this response (travel, transport plans, use of renewable energy/reduction of energy consumption), which if addressed would improve the conformity of the development proposal with the RSS.

Natural England : No objection. The proposal poses no risk to designated sites and there is only a limited possibility of damage/disturbance being caused to protected species, breeding birds. Recommend that construction work takes place outside the bird nesting season. It would be beneficial if the proposed included measures to restrict use by off road motorbikes.

Planning Considerations

The main planning considerations are at this time considered to be the scope of the application, policy in particular the suitability of the development in terms of national and local retail policies, highways, flooding, impact on the amenity of neighbours and Conservation.

However a number of consultations are outstanding and legal advice has been sought on the scope of the application in light of this members will be updated at the meeting.

A related issue on this site is the position in relation to the principal legal agreement, the status of which has been questioned by the applicant. Legal advice has also been sought on this matter and it is hoped that members can be updated on the position in relation to this matter at the meeting.

RECOMMENDATION – update at meeting

No: 5
Number: H/2008/0577
Applicant: MR R Atwal
Agent: HC Dsigns 206 North Road Darlington DL1 2EN
Date valid: 24/09/2008
Development: Provision of a rear first floor balcony (amended application)
Location: 2 DELAMERE BILLINGHAM

UPDATE

The application appears on the main agenda at item 5.

The recommendation was left open as the response of the applicant to suggested amendments was awaited.

At the time of writing no response had been received. It is hoped members can be updated at the meeting.

RECOMMENDATION – verbal update at meeting.

No: 8
Number: H/2008/0616
Applicant: Mr Adel Atfi OXFORD ROAD HARTLEPOOL TS25 5RH
Agent: Mr Adel Atfi 132 OXFORD ROAD HARTLEPOOL TS25 5RH
Date valid: 13/10/2008
Development: Variation of condition 2 of planning permission H/2006/0839 to allow opening on a Sunday between the hours of 10am and 11pm
Location: 132 OXFORD ROAD HARTLEPOOL HARTLEPOOL

Update

1 For clarification a total of 8 letters of objection from 7 different households have been received. The reasons for objection have been set out in the original report and copies of the letters received to date have been made available to Members as background papers. Any further letters of objection received before the meeting will be tabled.

2 Discussions have been undertaken with the Council's Legal Officer regarding the applicant's inquiry regarding the potential for a delivery only service to operate from the premises outside the approved hours. It is considered that such an operation would not be lawful and would constitute a breach of planning condition. The applicant will be informed of this situation separately in writing.

3 Since the original report was created the response of the Head of Public Protection has been received. The Officer concludes that it would be difficult to sustain an objection to this application considering the comments made by the Inspector on the previous appeal decision with reference to the similar use at 143 Oxford Road and the fact that this takeaway now has permission to open on Sundays on a trial basis (a copy of the Inspector's decision letter is attached to the original report).

4 As Members will be aware there have been numerous applications for the provision of hot food takeaways on Oxford Road since 2007 which have been allowed by the Planning Inspectorate on appeal. A brief history of the permissions including the hours of operation granted are set out below:-

- 60 Oxford Road – H/2007/0839 - Allowed 12pm – 7pm (as applied for) any day of the week.
- 122 Oxford Road – H/2006/0565 – Allowed – 11 am – 10pm any day of week.
- 132 Oxford Road – H/2006/0839 – Allowed – 8am – 11pm Mondays to Saturdays. No Sundays, Bank or Public Holidays.

- 143 Oxford Road – H/2006/0502 – Allowed – 8am – 11pm Mondays to Saturdays and at no other time on Sundays, Bank or Public Holidays. This was subsequently amended by planning application H/2007/0732 which is discussed below.

5 It is important to note that in considering the planning appeal for the change of use of 132 Oxford Road to a hot food takeaway the Inspector made the following comments on opening hours, and in particular Sunday opening :-

‘... I note that the appellant intends a closing time of 23.00 hours and I believe that this, which can be ensured through the imposition of a condition, would prevent any undue level of disturbance at unsocial hours. Whilst, I am less convinced of the need to prevent opening on Sundays, as suggested by the Council, I note that the recent appeal decision in respect of a similar use at 143 Oxford Road imposes such a restriction. In the interests of consistency, I have done the same.’

6 Moreover the Planning Inspector in determining the appeal at 122 Oxford Road (H/2006/0565) considered that it would not be necessary or reasonable to prevent the opening of the proposal on Sundays or Bank Holidays, given that other shops in the vicinity are open on these days.

7 Since 143 Oxford Road was granted consent at Planning Appeal for use as a hot food takeaway an application (H/2007/0732) to vary the condition restricting the hours of operation has been submitted and approved. The application allows Sunday and Bank Holiday opening and opening up to 12 midnight on a Friday and Saturday (from the previously approved 11pm). In this instance as the use had been operating for approximately 8 months without complaints to the Public Protection Section regarding noise and disturbance and that no letters of objection were received regarding the application to extend the hours it was considered prudent to grant a temporary 1 year permission to allow the additional opening so that the Local Planning Authority could assess the use in the light of experience.

8 To date the Head of Public Protection has not received any complaints regarding the operation of 143 Oxford Road as a hot food takeaway including the opening on a Sunday and Bank Holiday. In addition the Officer has confirmed that his section have not received any complaints regarding the use of 132 Oxford Road in terms of noise and disturbance.

9 As stated in the original report the Local Planning Authority have received complaints regarding the hours of operation outside those permitted by the planning approval and this matter has been investigated by Officers. Officers have observed the unit in operation on a Sunday up until 11pm on an evening and did not consider that the operation of the premises gave significant rise to unacceptable noise and disturbance issues on those occasions.

Conclusion

10 Notwithstanding the comments of the objectors, in light of the above in particular the responses of the Head of Public Protection and Traffic and Transportation it is considered that on balance there is insufficient evidence to sustain a refusal for the operation of the use on a Sunday at the hours proposed. It is considered prudent in this instance to recommend a temporary 1 year planning permission in line with normal practice in these cases so that the LPA can assess the operation of the premises on a Sunday in the light of experience. This would identify any significant detrimental noise, disturbance, traffic or other issues, if they occur and are directly attributable to the application site. This approach would ensure that if the opening of the premises on a Sunday does directly give rise to detrimental noise and disturbance issues a robust defence of any planning appeal could be created. This would overlap the trial period for 143 Oxford Road and comparisons/cumulative impacts could be assessed.

11 Members should be aware about complaints relating to the later opening of the premises generally. Observations and publicity show the premises open later than permitted, the latter referring to midnight closure on Fridays and Saturdays. This is a separate enforcement matter and an item of any other business has been provided on this.

RECOMMENDATION – Approve subject to the following planning condition(s)

1. The permission hereby granted is valid until 26 November 2009 and the premises shall revert to the originally approved opening hours (approved under application H/2006/0839) on or before that date unless the prior written consent of the Local Planning Authority has been granted to an extension of this period.

To enable the Local Planning Authority to assess the use in the light of experience.

2. For the avoidance of doubt the premises shall only be open to the public between the hours of 08.00 - 23.00 Mondays to Saturdays and 10.00 - 23.00 Sundays and at no time on a Bank or Public Holiday during the period permitted by condition 1.

In the interests of the amenities of the occupants of neighbouring properties.

PLANNING COMMITTEE

26th November 2008

Report of: Director of Adult and Community Services

Subject: CONCURRENT PUBLIC PATH
EXTINGUISHMENT & CREATION ORDERS:
HARTLEPOOL PUBLIC FOOTPATH No. 19,
SEATON LANE AND CREATION OF
HARTLEPOOL PUBLIC FOOTPATH No. 42

1. **PURPOSE OF REPORT**

- 1.1 This report seeks approval for the making and subsequent confirmation of concurrent extinguishment and creation orders to extinguish Public Footpath No. 19, Hartlepool and create, in its place Public Footpath No. 42, Hartlepool (as shown in **Appendix 1**). The location of the Public Footpath is shown in **Appendix 2**.

2. **BACKGROUND**

- 2.1 Public Footpath Hartlepool 19 originally connected to Calcutta Road, which was extinguished in the 1970's. The public footpath should have been extinguished at the same time, but, for reason unknown, it was not. Unfortunately this has resulted in a path being left on the Definitive Map showing no connection to any existing highway.
- 2.2 As a result of the preparation, production, approval and final adoption of Hartlepool's Rights of Way Improvement Plan, it was highlighted in one of its themes in its Statement of Action to look at the Definitive Map and to review all anomalies of this nature. This is in the process of being carried out.
- 2.3 On the 22nd May 2008 the Parks and Countryside Section received an application to extinguish Public Footpath No 19 Hartlepool, which runs through land owned by Whitestone Weavers, Parkview Road East, Brenda Road. In order to offset the extinguishment it is further proposed to create a new public footpath over land owned by the Council. The extinguishment and proposed creation routes are shown in Appendix 1.

3. FINANCIAL IMPLICATIONS

- 3.1 The overall costs for this application amounts to approximately £1,400.00 and the landowner will be defraying this full cost
- 3.2 An agreement with the landowner (Whitestone Weaver), over who's land Hartlepool 19 runs, is in place to defray any costs potentially incurred from a claim for compensation for the extinguishment of the said path. They have no intention to claim such costs for compensation.

4. LEGAL TESTS

- 4.1 Section 118 of the Highways Act 1980 allows the Authority to extinguish a footpath if it is satisfied that it is expedient to do so, on the grounds that the footpath is not needed for public use.
- 4.2. Before such an Order can be confirmed the Authority must also be satisfied that the extinguishment is expedient having regard to the extent to which it appears that the path would be likely to be used by the public and the effect which the extinguishment of the path would have on the land served by the path.
- 4.3 The provisions for concurrent orders set out in Section 118 (5) must consider whether the path or way to which the public path extinguishment order relates is needed for public use and to what extent (if any) that path or way would apart from the order be likely to be used by the public. The Authority may have regard to the extent to which the public path creation order would provide an alternative path or way.
- 4.4 Section 118 (6A) looks to material provisions as stated in Hartlepool's Rights of Way improvement Plan. An Authority should have regard when determining whether or not to confirm such an order as an unopposed order on land over which the order would extinguish a public right of way.
- 4.5 When considering the Creation Order as laid out in Section 26 of the Highways Act 1980, the Authority must be satisfied that the extent to which the path would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area and the effect which the creation of the path or way would have on the rights of persons interested in the land it is expedient that the path or way should be created. The Authority may by order made by them and confirmed by them as an unopposed order, create a footpath over the land.

- 4.6 Section 26 (3A) looks to material provisions as stated in Hartlepool's Rights of Way improvement Plan. An Authority should have regard when determining whether or not to confirm such an order as an unopposed order on land over which the proposed footpath or bridleway would be created.

5. CONSIDERATION OF LEGAL TESTS

- 5.1 When looking at the legal tests as provided within the Highways Act 1980, Sections 118, 118(5), 118(6A), 26 and 26(3A), the following questions have been considered:
- 5.2 Why is it expedient to close that path (Section 118)?
The Council considers it expedient to close the path on the grounds that historically it should have been extinguished at the same time as Calcutta Road was extinguished, in the 1970's. Its present state is that of an anomaly, with it being a public footpath unconnected to any highway.
- 5.3 Why is the path not needed (Section 118)?
The Council considers the path not to be needed due to its full isolation from the rest of the highway infrastructure. The landscape around this individual path has changed to the extent that it serves no purpose for the enjoyment of the general public or nearby residents. The original reasons for adding it to the Definitive Map, as a useful and relevant path, serving the community, have disappeared, when the housing and the housing's associated road (Calcutta Road) were removed entirely during the 1970's.
- 5.4 How much use would the path be likely to be used if it were not extinguished (Section 118)?
If the path was not to be extinguished, the Council reasons that it would not be used by any member of the public, at anytime. This is confirmed by the lack of any physical evidence of use. This after countless site visits having been made by Council staff.
- 5.5 Why is the new path needed (Section 26)?
The new path is needed to provide an enjoyable route for people to use to access the immediate area, away from the danger of mechanically propelled vehicles.
- 5.6 Why will it add to the convenience and enjoyment of a substantial section of the public or local residents (Section 26)?
The new path provides a safe route between Brenda Road and Seaton Lane, reducing the need to walk by the side of two busy roads thus providing the user with a more direct, quieter, healthier and more enjoyable experience. The path runs through an area of urban

Greenspace. Its terminus at Seaton Lane lies directly opposite the Seaton Carew Train Station and so adds to its strategic position in the rights of way network.

- 5.7 Consideration of the concurrent orders to extinguish and create (Section 118(5)).
When considering the concurrent orders of extinguishment and creation, the Council has decided that the two orders work towards a more positive addition to the rights of way network, for the public in general as well as local residents. It will serve all sections of the community adding to the safety and sustainability of the highway infrastructure. The addition of this new path onto a nearby line makes the existing anomalous path redundant and thus its extinguishment is a necessary process to legally remove it from the Definitive Map and Statement.
- 5.8 Consideration of the Rights of Way Improvement Plan (Sections 118(6A) and 26(3A) respectively)
When looking at the legal tests for extinguishment and creation with regards to the Rights of Way Improvement Plan, the Council feels that in both cases there are no material provisions to be met, above normal management of the conclusion of each order. The new route is already owned and managed by Hartlepool Borough Council.

6. CONSULTATIONS

- 6.1 Full informal consultations have been carried out with all relevant parties, including all the relevant user groups, and no objections have been received. A full list of consultees is provided as **Appendix 3**.

7. SECTION 17

- 7.1 Section 17 of the Crime and Disorder Act 1988 requires local authorities and police authorities to consider the community safety implications of all their activities.
- 7.2 Section 17 states:
'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various 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'.

- 7.3 The Community Safety Implications, in respect of the concurrent extinguishment and creation of the Public Footpaths at Tees Bay Industrial Estate, have been taken into account and that all has been reasonably done to prevent crime and disorder

8. DIVERSITY

- 8.1 It is believed that there are no Diversity issues or constraints in relation to the concurrent extinguishment and creation of the Public Footpaths at Tees Bay Industrial Estate.

9. ACCESS

- 9.1 Hartlepool Access Group has been consulted. Hartlepool Borough Council did not receive any indication that the proposals were unacceptable.

10. RECOMMENDATIONS

- 10.1 That the Planning Committee:
- a) Approves the making of concurrent Extinguishment and Creation Orders to implement the proposal shown in as shown in Appendix 1.
 - b) If no objections are received, or if any objections which are received are subsequently withdrawn, the Orders be confirmed; and,
 - c) If any objections are received, and not subsequently withdrawn, the Orders be referred to the Secretary of State for confirmation

CONTACT OFFICER: Chris Scaife, Countryside Access Officer

BACKGROUND PAPERS

Highways Act 1980

This document is also available in other languages, large print and audio format upon request.

এই ডকুমেন্ট অন্য ভাষায়, বড় প্রিন্ট আকারে এবং অডিও টেপ আকারেও অনুরোধে পাওয়া যায়। (Bengali)

本文件也可應要求，製作成其他語文或特大字體版本，也可製作成錄音帶。 (Cantonese)

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है
(Hindi)

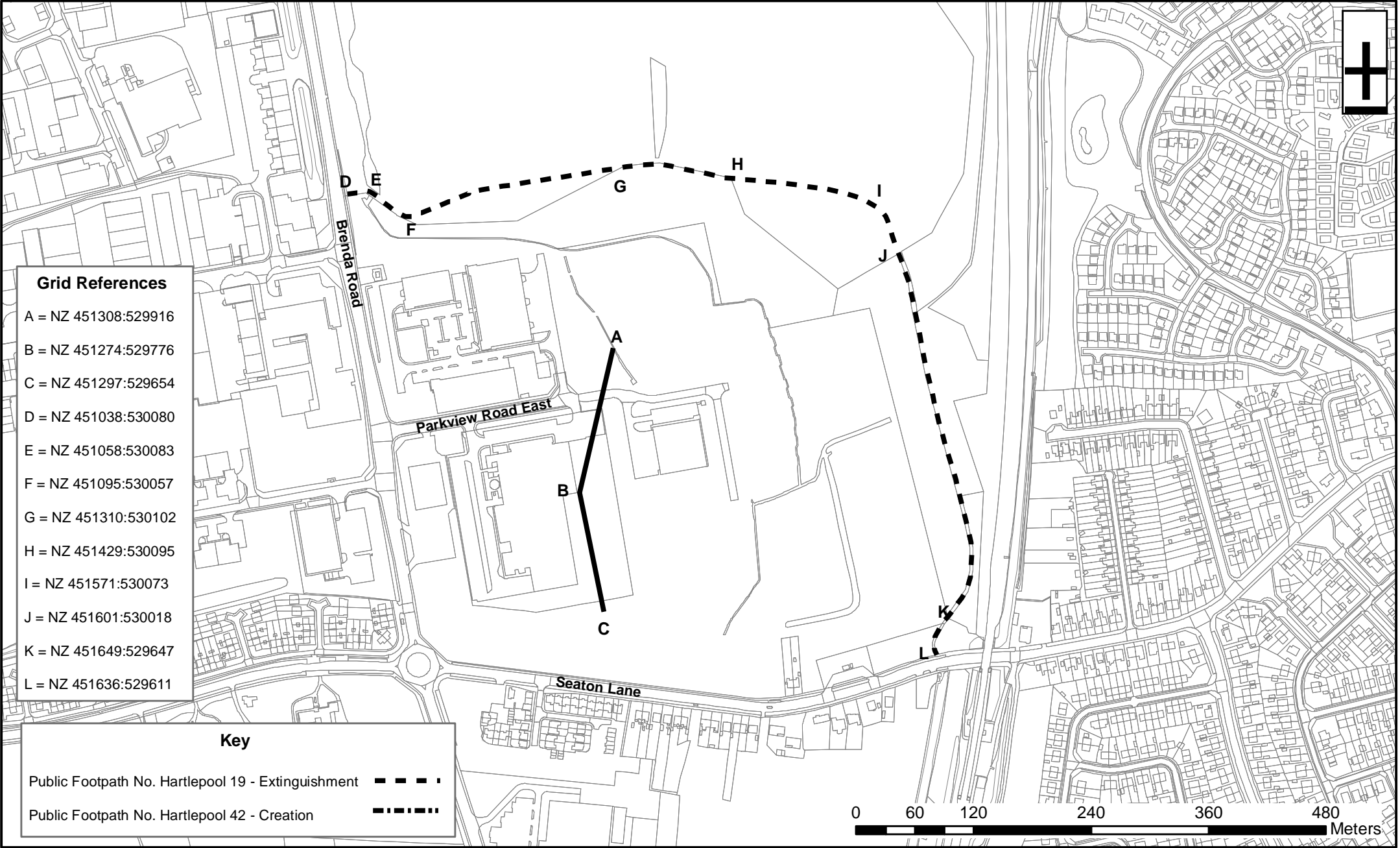
ئەم بەلگەيە ھەروەھا بە زمانەکانی کە، بە چاپی درشت و بە شێوەی تەسجیل دەست دەکەوێت (Kurdish)

本文件也可應要求，制作成其它语文或特大字体版本，也可制作成录音带。 (Mandarin)

ਇਹ ਦਸਤਾਵੇਜ਼ ਹੋਰ ਭਾਸ਼ਾਵਾਂ ਵਿਚ, ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਆਡੀਓ ਟੇਪ 'ਤੇ ਰਿਕਾਰਡ ਹੋਇਆ ਵੀ ਮੰਗ ਕੇ ਲਿਆ ਜਾ ਸਕਦਾ ਹੈ। (Punjabi)

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔ (Urdu)

Appendix 1 - Concurrent Extinguishment Hartlepool No. 19 and Creation Hartlepool No. 42

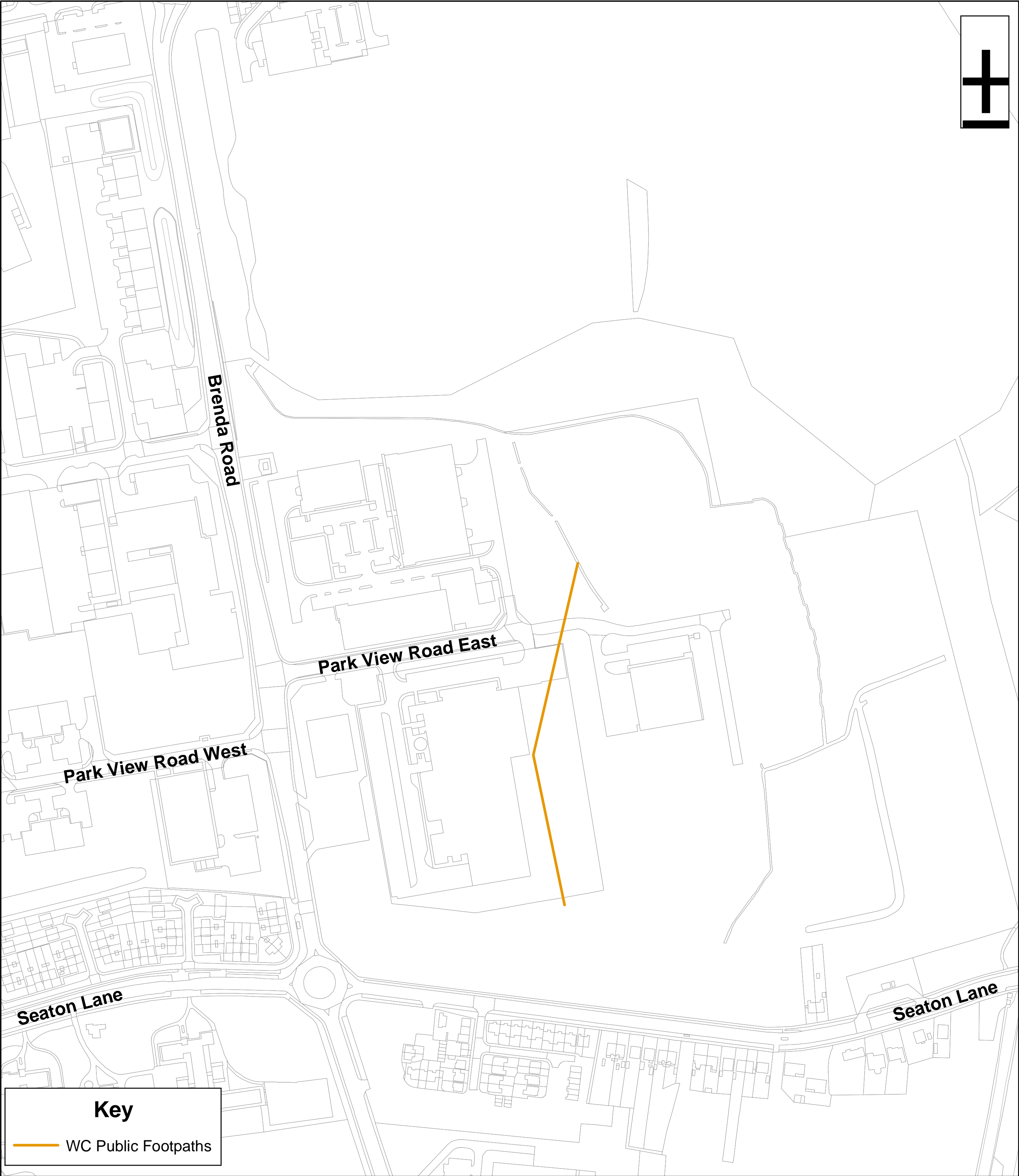


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Sub Title: Hartlepool 19 C E/C PPO
Scale: 1:5,000
Date: 11th September 2008
Drawn By: Parks & Countryside B U

Hartlepool Borough Council
Adult and Community Services Department
Parks and Countryside
Suite 8, Municipal Buildings
Church Square
Hartlepool, TS24 7EQ
Tel: 01429 523524
Fax: 01429 523450

Appendix 2 - Location of Public Footpath Hartlepool No. 19



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Sub Title: Hartlepool 19
Scale: 1:2000
Date: 15th October 2008
Drawn By: Parks and Countryside BU

Hartlepool Borough Council
Adult & Community Services Department
Parks and Countryside
Suite 8, Municipal Buildings
Church Square
Hartlepool, TS24 7EQ
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Fax: 01429 523450

4.2 APPENDIX 3

List of Consultees

Ward Member s: Councillor S Cook
 Councillor A Marshall
 Councillor M Johnson
Portfolio Holder: Leisure, Culture and Tourism – Councillor V Tumilty

Ramblers Association
Hartlepool Access Group

Hartlepool Borough Council Services:
Technical Services
Ecology
Tees Archaeology
Planning
Apparatus
Street Lighting
Property Services

Utilities:
CE Electric
Northern Gas Networks
Telecom – Virgin Media
Telecom - BT
Water Hartlepool Water Authority
 Northumbrian Water Authority
National Grid
Environment Agency
Northern Utility Services

Report of: Assistant Director (Planning and Economic Development)

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

- 1.1 Your attention is drawn to the following current ongoing issues, which are being investigated. Developments will be reported to a future meeting if necessary:
1. A neighbour complaint regarding an untidy half finished house development in Manor Road.
 2. Neighbour complaint regarding the erection of a rear boundary fence at a property in Sunningdale Grove without planning permission.
 3. Anonymous complaint regarding the commencement of building works at a commercial property in Upper Church Street.
 4. Officer monitoring recorded the erection of catering cabins without planning permission.
 5. Anonymous complaint regarding the erection of smoking shelter at a public house in Catcote Road.
 6. Officer concerns regarding the profiling of landfill mounds at a waste disposal site on Thomlinson Road.
 7. Anonymous complaint regarding an untidy property in Hylton Road.
 8. Officer concerns regarding an untidy public house in Church Street.
 9. Officer concerns regarding the long term sitting of metal container in the front garden of a property in Linnet Road.
 10. Neighbour complaint regarding a housing development standing half finished on Merlin Way
 11. Anonymous complaint regarding the un-finished external appearance of a domestic garage in Miller Crescent.
 12. Officer monitoring recorded the erection of an extension at a property in Merganser Road.

13. Public complaint regarding an untidy site resulting from half – finished demolished site at Old Cemetery Road.
14. Neighbour complaint regarding work commenced on a private housing development prior to gaining formal planning approval in Chesterton Road.
15. Neighbour complaint regarding home delivery service operating from a restaurant in York Road.

2. RECOMMENDATION

- 2.1 Members note this report.

Report of: Assistant Director (Planning & Economic Development)

Subject: SEATON MEADOWS LANDFILL SITE

1 PURPOSE OF REPORT

- 1.1 The position at the Seaton Meadows landfill site has been the subject of ongoing reports to the Committee.
- 1.2 Information is being collated to be able to provide as comprehensive a position statement as possible. It is hoped for example to include the results of thermal imaging, which is currently ongoing, to demonstrate whether or not fires have been extinguished within the tip. It is anticipated that this information will be available as an update report prior to the meeting.

2 RECOMMENDATION

- 2.1 Update to follow.

Report of: Assistant Director (Planning & Economic Development)

Subject: SEATON MEADOWS LANDFILL SITE

1. The initial report indicated that information was being collated to provide a comprehensive position statement. The current position is outlined below.
2. OVER TIPPED WASTE
 - 2.1 Alab indicated at the last Committee meeting they attended that the phases where historic over tipping has occurred are not as high as previously indicated (owing to settlement). It was also suggested the phases would settle even more, to the extent that it would only be marginally above permitted levels. Alab are now required to provide levels information periodically to the Environment Agency (EA), the next time being in December. The Company have confirmed that they will provide a copy of this information to the Council at the same time. The position will be clearer once this has been seen.
 - 2.2 More recently concerns were raised about the height of the tipping in the current working area. Alab immediately agreed to survey this area. The results of this are currently awaited.
 - 2.3 In advance of the survey results, Alab closed the site for all but asbestos and contaminated soil waste on 06.November. Alab have stated that if the survey confirms parts of Cell 7 exceeds permitted heights, *“...works will start with immediate effect to reduce the heights once the EA have validated Phase 8 cell for use...”* (EA approval is expected shortly for this cell).

ACTIONS:

- 1 Alab
 - i) to provide the results of the survey of Cell 7 heights and respond accordingly.
 - ii) to provide an up to date topography plan and a technical explanation of reasons why the phases will continue to settle and the anticipated timescales involved. Any submission discussing over tipped waste and associated settlement should consider recent and historical waste deposits when calculating possible settlement. Any assessment of actual and projected settlement should preferably be carried out by a suitably qualified person. Alab to liaise with the Local Planning Authority (LPA) and EA, who have advised that *“the pre-settlement heights are now a permit issue and any agreement to alter (raise) these, may require a permit variation by Alab”*.

2 The LPA

- i) to determine whether enforcement action is necessary. Bearing in mind the risks associated with fire, Scott Wilson and others advise that such action is not finally considered until matters relating to fire (discussed below) have been fully considered.

3. FIRE

- 3.1 A copy of Alab' s September 2008 Fire Management Plan was commented upon by the LPA, Cleveland Fire Service and the EA. Only the EA required further details which have now been included in the current November 2008 version.
- 3.2 The Plan forms part of the requirements of the EA' s permit for the Seaton Meadows site; the other requirements relating to a fire prevention plan and a scheme for assessing potential damage that may have occurred to landfill infrastructure. The November version is currently with the EA for consideration.
- 3.3 Whilst site visits by the LPA and Scott Wilson have not resulted in any visual or odour indications of fire, the EA have noted burning odours and signs of fire at the waste monitoring and extraction chambers in some areas. More recently, the Company has commented *"...that the fire appears to be almost out, however, our [Alab' s] next stage will be thermal imaging which will give better understanding of any heat sources and their location"*. Alab have confirmed that the thermal imaging has been delayed until early next week due to the unavailability of equipment.
- 3.4 Therefore, whilst the results of the above remain awaited, there are indications that fire may continue at the site, albeit less apparent than previous observations. Despite this, it is clear that progress is being made towards resolving the problem. Matters are being advanced towards achieving an agreed Fire Management Plan with the EA and it is expected that results of the thermal imaging will be known shortly. Scott Wilson believe it would be highly inadvisable of the LPA to consider any action against the over tipped heights until the results of that monitoring regime have been fully considered.

ACTION:

1. Alab

- i) to continue to negotiation with the EA towards achieving an agreed Fire Management Plan and provide the results of the thermal imaging in time for the next planning committee.

2 The LPA

- i) to consult with the Environment Agency and Cleveland Fire Service on the results of the thermal imaging and the Fire Management Plan and action accordingly.

4. MUD ON THE HIGHWAY

- 4.1 The Company has confirmed that the haul road is being resurfaced whilst the site is closed, which should help to reduce the amount of mud leaving the site. Two letters, one from the Company and the other a joint letter with the Council and Police have been sent to the customers / visitors of the Seaton Meadows site (c. 350) which highlights the significance of the problems and forewarns of what action could be taken against such drivers if they continue to cause mud being deposited on the highway.
- 4.2 Given the content of the letter, which forewarns the potential involvement of Cleveland Constabulary, it is considered that matters be monitored in the knowledge that if problems persist, three options have been put forward by Alab: another wheel wash; additional hard surfacing before the wheel wash; jet washing of vehicles.

ACTION:

1 Alab

- i) to continue to monitor and enforce driver compliance within the Seaton Meadows site.

2 The Council in consultation with Cleveland Constabulary

- i) to monitor road conditions and enforce one, or more, of the three options in the event of failure. Enforcement remains available to the Council as condition 10 of planning application ref. H/FUL/0683/97, approved 20.06.00 (relating to wheel washing arrangements) has not been finally discharged.

5 LITTER

- 5.1 Alab have recently constructed a litter fence which, in the absence of information to indicate otherwise, appears to have been successful in capturing litter within the site. This may also be attributable to the pro active litter picking being undertaken by Alab and which also involves litter pickers being activated when being advised of litter being observed on Seaton Dunes and Seaton Carew golf course.
- 5.2 As is noted by the EA, Phase 8 (currently under construction) occupies a considerable area directly adjacent to the site boundary of the 'zinc works corner' and Tees Road. To ensure pro active measures are sustained, Alab should confirm how they intend to control / capture litter and any potential issues arising.

ACTION:

1 Alab

- i) to continue current procedures and confirm proposed litter control in relation to Phase 8.

2 The LPA and the EA

- i) to monitor and act accordingly.

6 **THE STELL**

6.1 The Council informed Alab and its consultants, TerraConsult of its comments relating to their intended resubmission of the application of Consent to Works under the Land Drainage Act 1991. This was mainly as a result of discussions at Planning Committee, which centred on matters relating to flooding events at the Brenda Road roundabout. The EA have recently confirmed that the works in rivers consent for both temporary and permanent works to The Stell have been issued to Alab / TerraConsult.

6.2 Alab / Terraconsult have commenced work on re-profiling the land around the intended location of The Stell and hope to finalise work on realignment in approximately 4 weeks time. The Council' s Technical Services Department have also begun work on land outwith the Seaton Meadows site to investigate what drainage exists and what opportunities there are to link with the diverted Stell (which Alab are agreeable to).

ACTION:

1 Alab and the Council

- i) continue the collaborative working relationship which has been formed and, subject to what is discovered over the next four weeks or so, aim to reduce flooding problems around this particular area.

Report of: Assistant Director (Planning & Economic Development)

Subject: APPEAL REF APP/H0724/A/08/2079769
H/2007/0839 CHANGE OF USE TO A HOT FOOD
TAKEAWAY, 60 OXFORD ROAD, HARTLEPOOL,
TS25 5SQ

1. PURPOSE OF REPORT

- 1.1 A planning appeal has been lodged against the refusal of the Local Planning Authority to allow the change of use of 60 Oxford Road, Hartlepool to a hot food takeaway shop.
- 1.2 The appeal was decided by written representations and allowed by the Planning Inspectorate.
- 1.3 A copy of the Inspector's decision letter is set out below.

2. RECOMMENDATION

- 2.1 That members note the decision.



Appeal Decision

Site visit made on 10 November 2008

**by Graham E Snowden BA BPhil Dip
Mgmt MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
12 November 2008

Appeal Ref: APP/H0724/A/08/2079769

60 Oxford Road, Hartlepool, Cleveland TS25 5SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Majid against the decision of Hartlepool Borough Council.
- The application Ref H/2007/0839, dated 9 November 2007, was refused by notice dated 26 February 2008.
- The development proposed is a change of use to hot food takeaway.

Decision

1. I allow the appeal, and grant planning permission for a change of use to hot food takeaway at 60 Oxford Road, Hartlepool, Cleveland TS25 5SQ in accordance with the terms of the application, Ref H/2007/0839, dated 9 November 2007, and the plans submitted therewith, subject to the following conditions:
 - (i) The development hereby permitted shall begin not later than three years from the date of this decision.
 - (ii) The use hereby permitted shall not be open to customers outside the hours of 12.00 to 19.00.
 - (iii) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and odours from the premises shall be submitted to and approved in writing by the local planning authority. The scheme, as approved, shall be implemented before the use commences and all equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
 - (iv) Before the use hereby permitted begins, the building shall be provided with noise insulation measures, to protect occupants of 62 Oxford Road against transmission of noise, in accordance with a scheme, which has first been submitted to and approved in writing by the local planning authority. Such scheme shall subsequently be retained during the lifetime of the development.

Main Issues

2. The main issues are the effect of the proposal on, firstly, the living conditions of neighbouring occupiers particularly in terms of noise and disturbance and, secondly, the safety of users of the highway.

Appeal Decision APP/H0724/A/08/2079769

Reasons

3. The application is for a change of use only and I have determined the appeal on this basis. The submitted plans show alterations to the ground floor frontage on Oxford Road, but no elevations are provided. I consider that such alterations will need to be the subject of a separate application.

Living conditions of neighbouring occupiers

4. Policy Com12 in the Hartlepool Local Plan (Local Plan) sets out the circumstances in which proposals for food and drink developments will be permitted. These include a requirement that there will be no significant detrimental effect on the occupiers of adjoining or nearby properties by reason of noise, disturbance, smell or litter. The Policy also states that hot food takeaway uses "will not be permitted in predominantly residential areas, where they adjoin residential properties".
5. Whilst the streets to the north of the appeal site are predominantly residential and there is a greater concentration of residential frontages at the eastern end of Oxford Road, where the appeal property is located, Oxford Road is not, in my view, a predominantly residential area. The appeal premises are in commercial use and there is a tanning/beauty salon at the other end of the short terrace in which it is located. There are other commercial premises further west and a hairdressers and car repair centre on the opposite side of the road. I, therefore, do not consider that there can be an objection in principle to the proposed use in this location.
6. The three properties to the west are in residential use, but the physical relationship of the unit to adjacent residential units is similar to that existing at 122 Oxford Road, where a recent appeal was allowed for a similar use. In my view, there must be significant activity on Oxford Road, which is a bus route and carries a reasonable volume of through traffic. This would extend into the evening as there are other evening uses in the immediate vicinity such as the fish and chip shop on the corner of Harrow Street which, I note, opens until 22.30 hours. Against this background, I do not consider that the appeal proposal, whose modest opening until 19.00 hours can be controlled by the imposition of a condition, would generate a level of activity likely to cause undue noise and disturbance to residents on Oxford Road.
7. Transmission of noise from within the premises to the adjacent dwelling can be satisfactorily mitigated by the installation of noise insulation measures and this can be secured through the imposition of a condition. This appears to be accepted by the Council and I can see little justification for its suggested condition restricting operating as well as customer opening times. I note that it is intended to install a new stairway direct from the street to the upper floors, which would effectively separate the unit from adjacent residential accommodation.
8. The premises are separated from residential property fronting Eton Street by a rear yard and lane and the customer entrance would be on Oxford Road. I would not, therefore, expect the use to cause any noise and disturbance for residents there. Whilst it is possible that customers may park in Eton Street, I

Appeal Decision APP/H0724/A/08/2079769

consider this to be unlikely given the roadside parking bays available on Oxford Road.

9. The submitted plans show kitchen facilities on the return frontage of Eton Street with an extraction discharge point in this location. I consider this to be far enough away from residential property to prevent any nuisance from fumes or cooking odours provided that a suitable ventilation system is installed. Again this can be secured by the imposition of a condition. I note that adequate storage provision is to be made within the premises and litter is a matter, which can be controlled through other legislation.
10. I, therefore, conclude on this issue that the proposal would not have an adverse effect on the living conditions of neighbouring occupiers, particularly in terms of noise and disturbance and, in this respect, there would be no conflict with the provisions of Local Plan Policies GEP1 or Com12.

Safety of users of the highway

11. The appeal property is part of a terrace of five units and there is a layby with 5 parking spaces adjacent on Oxford Road. I consider this arrangement to be adequate to meet the needs of the development, even allowing for residential roadside parking in the evening (given the absence of off-street parking). There are parking restrictions on the corner with Eton Street and even in the rare event that patrons would park on the latter, I do not consider that the case for claiming that traffic or pedestrian safety would be compromised has been made out. In my view, the use would not have an adverse effect on the safety of users of the highway. Criterion ii in Local Plan Policy Com12 would be satisfied.

Conclusions

12. I have taken into account other concerns, such as risk of anti-social behaviour, but consider that this is usually the product of later evening activity, to which the proposed opening hours would not contribute. I also consider that the Council's proposed conditions would satisfactorily regulate the use and, with the exception of the operating hour condition, referred to above, I shall impose conditions to give effect to these.
13. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

G E Snowden

INSPECTOR