

# PLEASE NOTE AMENDED START TIME

## PLANNING COMMITTEE AGENDA



**Wednesday 25<sup>th</sup> March 2009**

**at 10.00 am**

**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 Minutes of the meeting held on 18<sup>th</sup> December 2008
- 3.2 Minutes of the meeting held on 25<sup>th</sup> February 2009

#### 4. ITEMS REQUIRING DECISION

- 4.1 Planning Applications – *Assistant Director (Planning and Economic Development)*
  - 1. H/2009/0003 Holmewood Nursing Home, 301 Stockton Road
  - 2. H/2008/0577 2 Delamere, Billingham
  - 3. H/2009/0033 15-18 The Front, Seaton Carew, Hartlepool
  - 4. H/2009/0017 Lewis Grove / Macauley Road / Pinero Grove / Sinclair Road
  - 5. H/2008/0625 25 Viscount Close, Hartlepool
  - 6. H/2009/0102 St Hild's C of E School, King Oswy Drive
  - 7. H/2008/0703 Land West of Clark Street and North of Burbank Street
  - 8. H/2008/0495 Teesbay Retail Park, Brenda Road
- 4.2 Update on Current Complaints – *Assistant Director (Planning and Economic Development)*

# PLEASE NOTE AMENDED START TIME

- 4.3 Appeal by Mr M Fletcher, 38/40 Egerton Road, Hartlepool, TS26 0BW  
APP/HO724/A/08/2081827 - *Assistant Director (Planning and Economic Development)*
- 4.4 Appeal by Mr Adel Afti, Site at 132 Oxford Road, Hartlepool, TS25 5RH  
APP/HO724/A/09/2099083 - *Assistant Director (Planning and Regeneration)*
- 4.5 Appeal Ref: APP/O724/A/09/2097541/WF H/2008/0692 Retention of Railings  
to Garage Roof (Retrospective) 90 Hart Lane, Hartlepool TS26 0JN -  
*Assistant Director (Planning and Economic Development)*
- 4.6 Planning Code of Practice – *Chief Solicitor*

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. **EXEMPT ITEMS FOR DECISION**

8. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

9. **FOR INFORMATION**

Next Scheduled Meeting – Wednesday 22<sup>nd</sup> April 2009 in the Civic Centre at 10.00 am.

# **PLANNING COMMITTEE**

## **MINUTES AND DECISION RECORD**

18 December 2008

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

### **Present:**

Councillor: Rob Cook (In the Chair)

Councillors: Mary Fleet, Geoff Lilley, George Morris, Michelle Plant and Chris Simmons

In accordance with Council Procedure Rule 4.2 (ii), Councillor Martyn Aiken attended as a substitute for Councillor Stephen Allison

### **Officers present:**

Stuart Green, Assistant Director (Planning and Economic Development)  
Richard Teece, Development Control Manager  
Richard Smith, Solicitor  
Sarah Scarr, Landscape Planning and Conservation Manager  
Jo Wilson, Democratic Services Officer

### **119. Apologies for Absence**

Apologies were submitted from Councillors Stephen Allison, Shaun Cook, Bob Flintoff, Stan Kaiser, Pauline Laffey, Robbie Payne, Carl Richardson, Lilian Sutheran and Edna Wright.

### **120. Declarations of interest by Members**

None

### **121. Conservation Policy Review** *(Assistant Director (Planning and Economic Development))*

The Assistant Director presented a report which outlined proposed amendments to the existing Conservation Policy guidelines on windows as discussed by the Planning Working Group over a number of months. The Working Group had suggested that four criteria be considered when looking at replacement windows: Design; Dimensions; Detailing and Opening Mechanism. The rationale behind the use of the four criteria was outlined in Appendix 1. The report indicated that the suggested criteria were used as the basis of the amendments of the existing

planning policy endorsed by the Planning Committee in 2004. The proposed amendments in relation to unlisted buildings in conservation areas subject to an Article 4 Direction would allow for the incorporation of modern materials providing the window was 'of design, dimensions, detailing and opening mechanisms matching those of the original window' or of a traditional window appropriate to the character of the property in the case of replacement or alteration of non-traditional joinery items.

Before these amendments were approved by the committee members had asked that the issue be taken to public consultation. Subsequently in November 2008 leaflets were sent to all properties in the eight conservation areas and all residents were invited to one of six consultation sessions. Information was also posted on the Council website regarding the consultation and an online questionnaire was made available. In total 87 responses were received from the 2,200 delivered, a response of just under 4%. 78% of responses supported the proposed new policy with 20% against. There was 100% support from Elwick respondents, 76% support from Grange respondents and 73% support from Headland respondents. Copies of all the responses and comments from responders were appended to the report for the attention of the Committee.

The views of the Headland Conservation Area Advisory Group, the Conservation Area Advisory Committee and the Portfolio Holder for Regeneration and Liveability were also sought. All were in favour of the proposed policy with the Portfolio Holder describing it as a "good compromise". English Heritage had not yet given an official response to the consultation however they had indicated informally that the Council would be expected to take a strong line on the use of traditional materials before they would be prepared to invest in an area.

Members discussed various aspects of the proposed policy. The following issues were raised:

- Would the policy be applied retrospectively? The Assistant Director (Planning and Economic Development) indicated that it would be inappropriate to apply the policy retrospectively by assessing window alterations demonstrably completed before any new policy was adopted. He did point out however that unauthorised work of other kinds might be identified and any needs for retrospective planning or listed building consent applications, or enforcement action, would be pursued in the normal way.
- What would the scope be for providing grant aid to applicants provided they adhered to the recommendations? The Assistant Director advised that current policy only allowed for grant aid on windows using traditional materials. The Portfolio Holder for Regeneration and Liveability would need to approve any changes to the criteria. The current annual budget for grant aid only

amounted to approximately £75,000, all of which had been earmarked within the first six months of the financial year. The Chair suggested that the Portfolio Holder might be approached for additional funding specifically for houses using non-traditional materials which meet the proposed new policy,

- What rights would applicants have if the businesses they employed to carry out the work used non-compliant materials without their knowledge? The Assistant Director reported that strictly speaking such information should be specified in the contract and this would be the responsibility of the homeowner. If grant aid was involved then there would be additional checks carried out by council officers when hopefully any discrepancies would be spotted. However the Solicitor indicated that lack of knowledge would not be a defence in any enforcement action and the owner was obliged to ensure that the contract details were followed correctly.

A member also queried the very specific wording regarding the opening mechanism “matching those of the original window or of a traditional window appropriate to the character of the property”, asking if it would be enough for the window to look the part rather than have the authentic opening mechanism. This would be the most expensive aspect of any refurbishment and might not affect how the windows would look from the outside. The public should not be put to unnecessary expense simply to make a point. However the Assistant Director felt that if the traditional opening mechanism were not used there would be a visible difference in the appearance of the window both open and closed. The Council had a duty to preserve and enhance conservation areas and residents should honour that also. The Chair advised that cost was not a material planning issue and should therefore not form part of committee deliberations. Other members felt that using cheaper materials would devalue the property.

The Chair expressed his concerns at the lack of attendance at a meeting when such a controversial issue was being discussed. Members indicated they would prefer that a decision be made by more than the specified quorum of members. The Chair agreed, however there was no way to guarantee that members would attend any future meeting either. Members requested that the meeting be adjourned to a date after the 28<sup>th</sup> January 2009 Planning Committee meeting. Officers were asked to write to members with a choice of dates to ascertain which would be most convenient for the majority of members. The Solicitor would stress the importance of attending to members. Members asked that comparable information, including pricing, for window types be provided for the next meeting

## **Decision**

That the meeting stand adjourned to be reconvened at a date and time to be conveyed to Members at the earliest opportunity.

The meeting stood adjourned at 3.30 p.m.

Thursday 19<sup>th</sup> February 2009

The meeting reconvened at 1.00 p.m. in the Civic Centre, Hartlepool

## **Present:**

Councillor: Rob Cook (In the Chair)

Councillors: Stephen Allison, Shaun Cook, Bob Flintoff, Stan Kaiser,  
Pauline Laffey, Geoff Lilley, George Morris, Michelle Plant,  
Carl Richardson and Chris Simmons

In accordance with Council Procedure Rule 4.2 (ii), Councillor Martyn Aiken  
attended as a substitute for Councillor Robbie Payne

## **Officers present:**

Stuart Green, Assistant Director (Planning and Economic  
Development  
Richard Teece, Development Control Manager  
Richard Smith, Solicitor  
Sarah Scarr, Landscape Planning and Conservation Manager  
Jo Wilson, Democratic Services Officer

## **122. Apologies for Absence**

Apologies were submitted from Councillors Stephen Akers-Belcher,  
Robbie Payne, Lilian Sutheran and Edna Wright.

## **123. Declarations of interest by Members**

Councillor Stephen Allison declared a non-prejudicial interest in item 4.1  
Conservation Policy Review.

## **124. Conservation Policy Review** (*Assistant Director (Planning and Economic Development)*)

The Assistant Director referred members back to the report originally  
considered on 18<sup>th</sup> December 2008. He advised that following queries  
by members at that time additional information had been circulated in

advance of today's meeting for members' attention. This information specifically related to the cost of replacement sash windows and further comments on the proposals by English Heritage. In terms of costs a survey of local and national UPVC windows had shown prices ranging from £450 to £988 for the same single, double-glazed, UPVC sash window. The average cost was £655. The average price of a timber sash window was £886. This was felt to compare favourably with the higher end UPVC windows which would inevitably replicate a traditional sliding sash window more closely than those priced at the lower end of the market.

The Assistant Director further advised that a letter had been received from English Heritage regarding the proposed changes to the conservation policy. In it they had expressed their disappointment 'that the Council is now proposing the tabled amendments to conservation policy for the borough' and their opposition to its acceptance. They had also commented that they might be obliged to consider the value of allocating public funds toward a local authority whose policies were counterproductive to the aims and objectives of a heritage grant scheme. As a result of these comments by English Heritage the proposed policy guidelines had been amended. A copy of these new guidelines had been forwarded to members in advance of the meeting.

The Assistant Director also referred to a meeting with English Heritage, involving the Mayor and, in the Committee Chairman's absence, the Vice-Chairman. English Heritage had largely reiterated their concerns but had also stressed the importance of consistent decision making and of monitoring the effects of any policy change.

Members raised concern as to the level of response to the consultation with some commenting that while the 4% who had responded were in favour of the changes, the 96% who had failed to respond could be against the amended policy. However officers advised that the usual consultation procedures had been followed. A decision needed to be made based on this response in order to provide clear guidelines to the public regarding the Council's Conservation policy and alleviate the uncertainty which had been ongoing for over two years.

A discussion ensued. The majority of members were in favour of the amended policy however some felt that the specific wording of the policy should be amended slightly. In terms of unlisted buildings in conservation areas, subject to an Article 4 direction, they felt that reference to traditional materials being 'favoured' should be amended to traditional materials being 'encouraged'. They also asked that in terms of non-traditional windows the references to the profile and opening mechanism should be removed and replaced with something less specific. Officers were concerned that less precise criteria could result in problems in the future however the final decision was for members.

In terms of the comments from English Heritage one councillor raised

objections to the proposed amendments to the policy guidelines. By agreeing these changes the Committee would be turning down free money from English Heritage which could be used for the improvement of the town as a whole. If English Heritage withdrew funding from Hartlepool the costs of maintaining Listed Buildings, which could be substantial, would fall upon the Council and taxpayers. Traditional materials always looked better than their UPVC counterparts and soft wood had a longer life than UPVC, particularly UPVC from the lower end of the market. The Councillor queried why the conservation policy was being reviewed at all and was advised by the Chair that members had requested a review some time previously.

Members asked that a number of amendments be made to Section B (unlisted buildings in Conservation Areas, subject to an Article 4 direction) of the proposed policy. The new policy guidelines relating to this section to read as follows:

B (i) Any planning application for replacement or alteration of traditional windows on the building on front, side and rear elevations which is not of a type appropriate to the age and character of the building (**in terms of design and detailing**) and the character and appearance of the conservation area should be denied consent. **The use of traditional materials will be encouraged, however the use of modern material will be accepted provided that the window is of design (i.e. pattern of glazing bars, horns etc), profile (including that of the frame, the opening element and the positioning within the aperture) and opening mechanism matching those of the original traditional window (ie, hinged or sliding)**

B(ii) Any planning application for replacement or alteration of non-traditional windows on the building on front, side or rear elevations which is not of a type appropriate to that age and character of the building (**in terms of design and detailing**) and the character and appearance of the conservation area should be denied consent. **The use of traditional materials will be encouraged however the use of modern material will be accepted providing that the window is of design (i.e. pattern of glazing bars, horns etc), proportion and scale matching those of an original traditional window.**

Members' subsequent vote was based upon these alterations

### Decision

- I. That the comments of English Heritage be noted
- II. That the adoption of the proposed policy guidelines set out in Appendix 2 (as amended to reflect the comments of English Heritage) be agreed subject to the amendments detailed above



- III. That guidance for householders to provide information on the new policy and design considerations be developed and despatched to conservation area residents, estate agents and solicitors.
- IV. That the first test case of the new policy be brought to Planning Committee for consideration, with all subsequent decisions to be delegated to the Development Control Manager

CHAIRMAN

# **PLANNING COMMITTEE**

## **MINUTES AND DECISION RECORD**

25 February 2009

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

### **Present:**

Councillor: Rob Cook, (In the Chair)

Councillors: Stephen Allison, Shaun Cook, Mary Fleet, Bob Flintoff, Stan Kaiser, Pauline Laffey, Geoff Lilley, George Morris, Michelle Plant and Carl Richardson.

In accordance with Council Procedure Rule 4.2 (ii), Councillor Jonathan Brash attended as a substitute for Councillor Chris Simmons.

### **Officers present:**

Stuart Green, Assistant Director (Planning and Economic Development)  
Richard Teece, Development Control Manager  
Chris Pipe, Principal Planning Officer  
Sylvia Tempest, Principal Environmental Health Officer  
Richard Smith, Solicitor  
Angela Hunter, Principal Democratic Services Officer

### **Also Present:**

Adrian Milton, Scott Wilson Consultants

## **132. Apologies for Absence**

Apologies for absence were received from Councillors Stephen Akers-Belcher, Robbie Payne, Chris Simmons, Lilian Sutheran and Edna Wright.

## **133. Declarations of interest by Members**

Councillor Jonathan Brash declared a prejudicial interest in minute 135 – H/2008/0494 and indicated he would leave the meeting during the consideration of this item.

Councillor Rob Cook declared a prejudicial interest in minute 135 – H/2008/0711 and indicated he would leave the meeting during the consideration of this item.

Councillor Stan Kaiser declared a prejudicial interest in minutes 136 and 144 and indicated he would leave the meeting during the consideration of these items.

# **134. Confirmation of the minutes of the meeting held on 28 January 2009**

Confirmed.

# **135. Planning Applications** *(Assistant Director (Planning and Economic Development))*

Prior to considering the planning applications on the agenda, the Chair informed Members that the following items would be withdrawn from consideration:

- Item 1. H/2008/0495 Tees Bay Retail Park, Brenda Road – additional information awaited
- Item 4. H/2008/0531 34 Station Lane, Hartlepool – applicant's request.
- Item 16. H/2009/0003 Holmewood Nursing Home, Stockton Road – site visit requested.

**Number:** H/2008/0721

**Applicant:** Mr Bell  
HUTTON AVENUE, HARTLEPOOL

**Agent:** Mr Bell, 36 HUTTON AVENUE, HARTLEPOOL

**Date received:** 22/12/2008

**Development:** Conversion to bed and breakfast guest house (10 beds)

**Representations:** Mrs Bell (applicant) and Mr Bentham (objector) were in attendance and addressed the Committee.

**Location:** 36 HUTTON AVENUE, HARTLEPOOL

**Decision:** **Planning Permission Refused**

## **REASONS FOR REFUSAL**

1. It is considered that adequate on site parking facilities cannot be provided and that car parking by users of the proposed bed and breakfast establishment would of necessity have to take place on the road, away from the application site to the detriment of highway safety, the free flow of traffic and the amenities of the occupiers of housing in this predominantly residential area contrary to policies GEP1 and To9 of the adopted Hartlepool Local Plan 2006

2. It is considered that car parking associated with the proposed bed and breakfast establishment would have an adverse effect on the character of the Grange Conservation Area contrary to policies GEP1 and HE1 of the adopted Hartlepool Local plan 2006.

The Committee considered representations in relation to this matter.

Councillor Jonathan Brash left the meeting at this point due to his earlier declaration of interest.

<b>Number:</b>	H/2008/0494
<b>Applicant:</b>	Mr Allan Henderson Hartlepool Marina Limited
<b>Agent:</b>	England & Lyle, Morton House, Morton Road, DARLINGTON
<b>Date received:</b>	14/08/2008
<b>Development:</b>	Erection of a two-storey boat showroom and restaurant
<b>Representations:</b>	Mr D Resai (objector) was in attendance and addressed the Committee.
<b>Location:</b>	SLAKE TERRACE HARTLEPOOL
<b>Decision:</b>	<p>A) Had Members been required to determine this application they would have refused the application for the following reasons:</p> <ul style="list-style-type: none"> <li>i) Given known concerns in relation to the adequacy of the existing drainage system serving the area the applicant has failed to demonstrate that there is a satisfactory means for the disposal of foul sewage/effluent arising from the development.</li> <li>ii) The development does not accommodate adequate parking and it is considered that it would exacerbate existing parking problems and could result in inconsiderate parking to the detriment of highway safety.</li> <li>iii) The building would have a detrimental impact on the amenity of the occupiers of the adjacent building by reason of loss of light, outlook and over dominance.</li> <li>iv) The applicant has not submitted sufficient</li> </ul>

information in order to demonstrate the risk of pollution to controlled waters is acceptable contrary to PPS23.

v) The applicant has failed to demonstrate that there is a safe and convenient means of vehicular access to the premises.

vi) The proposed building is prominently located in a key location adjacent to the seaward entrance to the Marina. It is considered that the building by reason of its size, design and location would reduce the feeling of openness and diminish seaward views from the Marina. It is considered that it would have a detrimental impact on the character and appearance of this part of the Marina contrary to Policy GEP1 of the Hartlepool Local Plan.

B) Officers were authorised to contest the appeal using the report to the Committee and the reasons outlined above as the basis for this.

The Committee considered representations in relation to this matter.

Councillor Jonathan Brash returned to the meeting.

Councillor Rob Cook left the meeting at this point due to his earlier declaration of interest.

Councillor George Morris in the Chair during the consideration of the next item.

Councillor Stephen Allison declared a prejudicial interest in the following item and left the meeting during its consideration.

<b>Number:</b>	H/2008/0711
<b>Applicant:</b>	Whitbread Group PLC
<b>Agent:</b>	Cliff Walsingham & Co, Mrs Christine Roberts, Brandon House, King Street, Knutsford
<b>Date received:</b>	11/12/2008
<b>Development:</b>	Erection of a 54 bed floating hotel extension to existing hotel
<b>Representations:</b>	Mrs C Roberts (agent) and Mr Broadbent (objector) were in attendance and addressed the Committee.
<b>Location:</b>	PREMIER INN HOTEL, MARITIME AVENUE,

## HARTLEPOOL

**Decision:** **Minded to APPROVE but a final decision on the application and conditions was delegated to the Development Control Manager in consultation with the Vice Chair of the Committee**

The Committee considered representations in relation to this matter.

Councillors Stephen Allison, Jonathan Brash and Rob Cook returned to the meeting.

Councillor Rob Cook in the Chair for the remainder of the meeting.

**Number:** H/2009/0006

**Applicant:** Mr Philip Hunter

**Agent:** Malcolm Arnold, 2 Siskin Close, HARTLEPOOL

**Date received:** 12/01/2009

**Development:** Erection of a first floor bedroom and en-suite extension above garage

**Representations:** Mrs V Gupta (objector) was in attendance and addressed the Committee.

**Location:** 18 GREENBANK COURT, HARTLEPOOL

**Decision:** **Planning Permission Refused**

### REASONS FOR REFUSAL

1. It is considered that the proposed extension by reason of its siting and design would overlook the neighbouring property, 14 Greenbank Court to the detriment of the privacy of its occupants contrary to policies GEP1 and Hsg10 of the adopted Hartlepool Local Plan 2006.

Note: Policy Hsg10 of the adopted Hartlepool Local Plan indicates what factors should be taken into account when considering proposals for alterations and extensions to residential properties. There is a reference in the policy to guidance in Supplementary Note 4 contained within the Plan. This among other things indicates that front extensions should not adversely affect neighbours (Guideline 3) and minimum separation distances of 20m between principal elevations are normally required (Guideline 7). Members took the view that this proposal was contrary to this Policy and guideline and that there were serious concerns about overlooking issues.

The Committee considered representations in relation to this matter.

**Number:** H/2008/0698

**Applicant:** Mr A Khan  
GRANGE ROAD, HARTLEPOOL

**Agent:** ASP Associate, 8 Grange Road, HARTLEPOOL

**Date received:** 23/12/2008

**Development:** Conversion of single dwelling to 4 flats

**Location:** 78 GRANGE ROAD, HARTLEPOOL

**Decision:** **Planning Permission Approved**

### 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. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) 1569/2 (Rev B) received on 02 02 09, and plan(s) no(s) 1569/4 (Rev B) received on 05 02 09 unless otherwise agreed in writing by the Local Planning Authority  
For the avoidance of doubt.

Councillor Jonathan Brash left the meeting at this point.

Councillor Chris Simmons joined the meeting at this point.

**Number:** H/2009/0013

**Applicant:** Hartlepool Primary Care Trust  
Harbour Walk, The Marina, Hartlepool

**Agent:** S J R Architects, Suite 101, The Innovation Centre,  
Venture Court, Queens Meadow Business Park,  
HARTLEPOOL

**Date received:** 08/01/2009

**Development:** Incorporation of doctors surgery and provision of car parking (AMENDED DESCRIPTION)

**Representations:** Mr D Johnson (agent) and Mr John Robson (objector) were in attendance and addressed the Committee.

**Location:** HARTFIELDS MANOR, MIDDLE WARREN,

## HARTLEPOOL

**Decision:** **Minded to APPROVE subject to a variation to the Middle Warren development legal agreement to allow 21 spaces in the Neighbourhood Park car park to be dedicated to the doctors surgery**

### 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. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 9th February 2009, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt
3. Notwithstanding the submitted details a scheme for the car parking layout shall be submitted for the consideration and approval of 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.
4. No more than 3 doctors shall work at the hereby approved doctors surgery at any one time.  
To ensure the surgery does not operate in a way which would lead to excessive parking demands which would be detrimental to the amenities of the surrounding area.
5. 21 car parking spaces within the hereby approved car park shall be allocated and retained for use by the doctor's surgery. The delineation of these car parking spaces shall be in accordance with a scheme first to be agreed in writing by the Local Planning Authority as soon as the second doctor commences work at the surgery, thereafter the approved scheme shall be implemented and retained for the lifetime of the doctor's surgery, unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the surgery does not operate in a way which would lead to excessive parking demands which would be detrimental to the amenities of the surrounding area.
6. Final details of the drainage design shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the site is developed in a satisfactory manner.
7. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the



approved details and programme of works.

In the interests of visual amenity.

8. 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, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of visual amenity.
9. Final details for the proposed pedestrian access ramp, including handrail shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.  
In the interests of visual amenity and to ensure access for all.
10. 13 car parking spaces in the hereby approved car park shall be implemented prior to the operation of the doctors surgery with the remainder provided no later than 8 weeks from the first occupation of the doctors surgery unless otherwise agreed in writing by the LPA.  
To ensure the surgery does not operate in a way which would lead to excessive parking demands which would be detrimental to the amenities of the surrounding area.

The Committee considered representations in relation to this matter.

**Number:** H/2009/0008

**Applicant:** Joseph Rowntree Foundation

**Agent:** Billingham George & Partners, Waterloo House,  
Teesdale South, Thornaby, Stockton On Tees

**Date received:** 08/01/2009

**Development:** Provision of temporary car park for 33 cars

**Location:** LAND ADJACENT HARTFIELDS MANOR

**Decision:** **Planning Permission Approved**

### CONDITIONS AND REASONS

1. The use hereby approved shall be discontinued and the land restored to its former condition on or before 25 August 2009 or when any part of the land is required for the provision of play equipment, associated works or related landscaping for the proposed Neighbourhood Park on this site, whichever is sooner, unless the prior written consent of the Local Planning Authority has been obtained to an extension of this period.  
The use is not considered suitable as a permanent use of the land.
2. Unless otherwise agreed in writing by the Local Planning Authority, the car park hereby approved shall not be brought into use until a revised layout for the parking of vehicles has been submitted for the

consideration and approval of the Local Planning Authority and thereafter the revised layout has been implemented in accordance with the approved details.  
In the interests of highway safety.

**Number:** H/2008/0558

**Applicant:** Mr M Ashton  
Hillcrest Grove, Elwick, Hartlepool

**Agent:** Business Interiors Group, 73 Church Street,  
HARTLEPOOL

**Date received:** 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

**Decision:** **Variation Approved**

### CONDITIONS AND REASONS

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. 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.

5. 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.
6. 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.
7. Customers for 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.
8. 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.
9. 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.
10. No open storage shall take place on the site unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of the visual amenity of the area.
11. Final details, including a programme of works of the play equipment to be installed in the childrens play area 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 interest of the visual amenity of the area.
12. The drainage and the surface water treatment details approved under planning application H/2006/0333 shall be implemented and retained in working order, unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the site is adequately drained.

The Committee considered representations in relation to this matter.

Councillor Stan Kaiser left the meeting at this point due to his earlier declaration of interest.

**Number:** H/2009/0009

**Applicant:** Able UK Ltd, Billingham Reach Industrial Estate, Billingham

**Agent:** Able UK Ltd, Mr Richard Cram, Able House, Billingham Reach Industrial Estate, Billingham

**Date received:** 09/01/2009

**Development:** Application to remove condition 1 of planning permission H/2008/0525 to allow permanent permission for module

**Representations:** Mr G Wheeler (applicant) and Mr N Robertson (objector) were in attendance and addressed the Committee.

**Location:** ABLE UK LTD, TEES ROAD, HARTLEPOOL

**Decision:** **Minded to APPROVE subject to the following condition and subject to no substantially different objections before the expiry of the publicity period. The final decision was however delegated to the Development Control Manager**

### CONDITIONS AND REASONS

1. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority in relation to application H/2008/0525 on 15th and 19th September 2008, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt

The Committee considered representations in relation to this matter.

During the discussion of the above item, the meeting as adjourned at 3.45pm to clarify the position with regard to the submission of tabled papers at the meeting.

The meeting recommenced at 3.55pm.

Councillor Stan Kaiser returned to the meeting at this point.

Councillor Chris Simmons declared a prejudicial interest in the following item and left the meeting during its consideration.

**Number:** H/2009/0035

**Applicant:** Mr P Briggs  
Hartlepool Borough Council, Victoria Road,  
Hartlepool

**Agent:** GWL Chartered Architects, 1st Floor, Cathedral  
Buildings, Dean Street, Newcastle Upon Tyne

**Date received:** 20/01/2009

**Development:** Erection of a new classroom unit for learning  
including community use

**Location:** ST HILDS C OF E SCHOOL, KING OSWY DRIVE,  
HARTLEPOOL

**Decision:** **Minded to APPROVE but a final decision was  
delegated to the Development Control Manager  
in consultation with the Chair of of the  
Committee**

Councillor Chris Simmons returned to the meeting.

Councillor Stan Kaiser left the meeting at this point in view of his earlier declaration of interest.

**136. Able UK Ltd, TERRC Facility, Tees Road, Hartlepool**  
*(Assistant Director (Planning and Economic Development))*

It was noted that the approval of four applications for a variety of works and uses at the Terrc Site in Graythorp had been subject to a number of conditions and a legal agreement (S106 agreement). Since then officers and the Council's consultant advisors Scott Wilson had liaised with the developer about the discharge of these conditions and the terms of the S106 agreement. The purpose of the report was primarily to consider the results of monitoring by Scott Wilson on behalf of the Council. The report included the results of the first quarters monitoring of the Marad contract by way of an appendix. A further report for the second quarter was tabled at the meeting. A representative from Scott Wilson updated Members and informed them that the inspection regime was continuing with an increase in the monitoring of the site envisaged as work intensifies. Both reports concluded that "dismantling carried out to date has involved no activities that result in a breach of the agreed environmental protection measures or that were assessed to have a significant risk of causing environmental pollution or damage".

Members were also asked to note that ornithologists had monitored the site at all low water periods over December and January, including over Christmas and New Year. In summary, the representative from Scott

Wilson concluded that the majority of Able UK dredging and piling activities did not cause a disturbance. A copy of the monitoring report was available in the Members' room.

Members welcomed the reports and the Development Control Manager indicated that further update reports would be provided to Committee as appropriate.

### **Decision**

The report and update were noted.

Councillor Kaiser returned to the meeting.

### **137. Seaton Meadows Landfill Site** *(Assistant Director (Planning and Economic Development))*

The Development Control Manager updated Members on the recent change of personnel at the Seaton Meadows site and introduced the new Special Project Director who was in attendance to update Members on the issues of concern previously raised by Members, officers and residents.

- 1) Overtipping – The most recent area of overtipping was being redistributed. The earlier areas of fire related overtipping remain an issue and the Company envisage submitting an application to regularise the situation, shortly. Plans showing revised restoration proposals were tabled for Members' information.
- 2) Fires – Intensive thermal imaging had been undertaken and there had been no hot spots identified although there were still concerns that fires could be reignited if overtipped waste was removed. Members were asked to note that a significant investment had been undertaken with the purchase of a CCTV system to monitor this situation.
- 3) Mud on the Highway – A £100k investment had recently taken place in the internal road system including improved wheel washing facilities and road sweepers.
- 4) Litter – The responsibilities of the Site Manager now included responsibility for management of litter across the site with routine litter picking implemented. In addition, should the wind reach an agreed level, the site would close.
- 5) Flooding/the Stell – The contract was due to complete in 2 weeks time which would alleviate the issues raised. Discussions were ongoing with the Council with regard to highway drainage links into the Stell.

Members were please the continuation of the positive dialogue and open communication already achieved with Able UK.

The representatives from Able UK were thanked for their attendance and for updating Members.

## Decision

The update was noted.

### 138. **Planning Applications** *(Assistant Director (Planning and Economic Development))*

**Applicant:** Mr J Wright, Hartlepool Borough Council, 1 Church Street, Hartlepool

**Agent:** Mr J Wright, Hartlepool Borough Council, 1 Church Street, Hartlepool

**Date received:** 28/01/2009

**Development:** Alterations to provide a new extended carriageway

**Location:** LAND IN SPENSER GROVE, HARTLEPOOL

**Decision:** **Minded to approve subject to following conditions but the application be referred to GONE in the first instance as the land is Council owned and the proposal represents a departure from the Local Plan**

## 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 one month of the permission being granted a final scheme for formal layout of the carriageway including exact position and size of bollards and a schedule of works including time scales shall be submitted to and agreed in writing to the Local Planning Authority. Once agreed these shall be implemented in accordance with the agreed details.  
In the interests of highway safety.

**Number:** H/2009/0024

**Applicant:** Hartlepool & N Tees PCT

**Agent:** S J R Architects, Suite 101, The Innovation Centre, Venture Court, Queens Meadow Business Park, HARTLEPOOL

**Date received:** 13/01/2009

**Development:** Siting of a temporary doctors surgery

**Location:** LAND NEXT TO 402 CATCOTE ROAD  
HARTLEPOOL

**Decision:** **A. Planning Permission Approved**

### **CONDITIONS AND REASONS**

1. The building hereby approval shall be removed from the site and the land restored to its former condition on or before 1 April 2011 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority unless prior consent has been obtained to an extension of this period.  
The building is not considered suitable for permanent retention on the site.
2. Unless otherwise agreed in writing by the Local Planning Authority no more than 1 doctor shall be practising in the temporary GP surgery hereby approved at any one time.  
In the interests of highway safety.
3. Prior to the commencement of the development hereby approved a scheme of security measures including CCTV camera provision for the building hereby approved and the adjacent stairwell marked blue on the approved plan shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed the measures shall be implemented prior to the development being brought into use 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 the security of employees, patients and assets.
4. The premises shall be used as a Doctors Surgery and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.  
In the interests of the amenities of the occupants of neighbouring properties.
5. Notwithstanding the submitted plans the main entrance to the building shall be level or ramped in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter the approved access details shall be retained during the lifetime of the development.  
To ensure the access is safe and suitable for all people, including people with disabilities.
6. Unless otherwise agreed in writing by the LPA the doctors surgery shall not be brought into use unless a Traffic Regulation Order along the service road serving the shopping parade to prevent the parking of vehicles by persons visiting the surgery has been implemented  
In the interests of highway safety.



7. Details of all external finishing materials including external colour schemes 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.
  8. Unless otherwise agreed in writing by the Local Planning Authority development shall not commence until a scheme for the redesign of the proposal to avoid building over the public sewer in this location 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.  
A public sewer crosses the site and is shown built over on the application.
  9. The use hereby approved shall not commence until proposals for the storage of refuse within the site have been submitted to and approved in writing by the Local Planning Authority and all such approved details have been implemented.  
In the interests of the amenities of the occupants of neighbouring properties.
  10. No open storage shall take place on the site unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of the amenities of the occupants of neighbouring properties.
  11. 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.
- B. Officers investigate ways of providing parking for people with disabilities as close to the surgery as possible.**

The Committee considered representations in relation to this matter.

**Number:** H/2009/0025

**Applicant:** Hartlepool & North Tees PCT

**Agent:** S J R Architects, Suite 101, The Innovation Centre, Venture Court, Queens Meadow Business Park, HARTLEPOOL

**Date received:** 13/01/2009

**Development:** Siting of a temporary doctors surgery with associated car parking

**Location:** LAND NEXT TO 370 CATCOTE ROAD, HARTLEPOOL

**Decision:** **Minded to approve subject to no objections from outstanding publicity, reference of the application to GONE as the proposal represents**

a departure from the Local Plan and the land is Council owned and appropriate conditions. If GONE indicate that the application can be determined by the Local Planning Authority the final decision was delegated to the Development Control Manager in consultation with the Chair of the Committee

The Committee considered representations in relation to this matter.

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

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

**Decision**

That the report be noted.

**140. Appeals by Primesight Ltd, Site at A19 Services (North Bound), Elwick, Hartlepool (H/2008/0276)** *(Assistant Director (Planning and Economic Development))*

The Development Control Manager informed Members that a planning appeal had been submitted against the refusal of the Local Planning Authority to allow the retention of an internally illuminated free-standing display unit at this site. The appeal was decided by written representations and was allowed by the Planning Inspectorate. A copy of the decision letter was appended to the report.

**Decision**

That the decision was noted.

**141. Tesco, Burn Road, Hartlepool** *(Assistant Director (Planning and Economic Development))*

In view of concerns expressed by Members at the meeting of the Planning Committee on 17 December 2008 about the safety of the filter lane from Burn Road onto the A689, a safety report had been commissioned from outside consultants and an extract was provided for Members attention.

The report stated that: *“The left filter lane from Burn Road onto the A689 provides an obtuse angle at the give way, rather than an acute angle requiring drivers to look over their shoulders. Visibility to the right for*

*vehicles joining the A689 is also partially hampered by the presence of pedestrian guardrail. Both factors require drivers to exercise an additional, but not excessive, degree of caution when emerging from the filter lane.”*

The recommendation in the report was;

*“Observe performance over the first 6 months of operation in order to determine if the layout requires any ‘fine tuning.’”*

### **Decision**

Members noted the contents of the report and that a further update report would be provided after the 6 month monitoring period.

Councillor Kaiser left the meeting at this point due to his earlier declaration of interest.

## **142. 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.

Costs Award – Appeal by Able UK Limited – This item contains exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of any particular person (including the authority holding that information (para 3) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (para 5).

## **143. 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 144 – Costs Award – Appeal by Able UK Limited – This item contains exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of any particular person (including the authority holding

that information (para 3) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (para 5).

**144. Costs Award – Appeal by Able UK Limited** *(Director of Regeneration and Planning Services and Chief Solicitor)*

The Chief Solicitor presented a report which updated Members on the current position in relation to the above. Further details were included within the exempt section of the minutes.

**Decision**

Details were included within the exempt section of the minutes.

The meeting concluded at 4.55 pm.

CHAIRMAN

**No:** 1  
**Number:** H/2009/0003  
**Applicant:** Mr M MATHARU STOCKTON ROAD HARTLEPOOL  
TS25 1HA  
**Agent:** S J R Architects Suite 101 The Innovation Centre  
Venture Court Queens Meadow Business Park  
HARTLEPOOL TS25 5TG  
**Date valid:** 07/01/2009  
**Development:** Outline application for the erection of a 49 bed care home  
with associated parking (amended resubmitted scheme)  
**Location:** 301 HOLMEWOOD NURSING HOME STOCKTON  
ROAD HARTLEPOOL HARTLEPOOL

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## Background

1.1 The application was deferred from the previous Planning Committee to allow Members to carry out a site visit.

## The Application and Site

1.2 The application site is located on Stockton Road and comprises the current care home known as Holmewood. The site is set in a 0.6 acre site on the east side of Stockton Road. The current home can accommodate 20 residents in single rooms; the agent has stated that this low number with the unsuitability of the current building for further alteration and adaptation will necessitate closure of the home.

1.3 There have been 2 recent outline applications associated with the proposal to demolish the existing care home and rebuild:

**H/2007/0761** comprised an application for a 68 bed residential care home. This was withdrawn by the agent as there were concerns from the case officer regarding the scale and design of the proposal and no bat survey had been submitted.

**H/2008/0530** comprised an application for a 52 bed care home. This was withdrawn by the agent as there were concerns from the case officer regarding the scale and design of the proposal.

1.4 The current application proposes the demolition of the existing building and the erection of a 49 bedroom care home, which is shown to be 3 storey at the front then 2 storey at the rear. Whilst the application is for outline consent the details submitted regarding the access, appearance, layout and scale are for approval at this stage, with only landscaping being reserved for any future application.

## Publicity

1.5 The application has been advertised by way of neighbour letters (18), site notice and press notice. To date, there have been 9 letters of objection.

The concerns raised are:

1. traffic congestion and parking not changed from previous scheme
2. Stockton Road is a busy road
3. parking problems
4. size of development brings the building past the building line and is not in keeping with the character of the area
5. affect the value of property
6. unsympathetic
7. the size of the proposed building is outrageously large for a residential area
8. would appear oppressive as it looks like a factory or prison
9. it will be intrusive and give rise to unacceptable degree of overshadowing and overlooking which will have an adverse effect on the living conditions of neighbouring properties
10. would contravene the local plan which is to protect the effect on the amenities of the occupiers of adjoining properties i.e. general disturbance, loss of privacy, visual intrusion, dust, smell and vibration
11. it would have a devastating effect on the traffic flow in Stockton Road
12. the proposal would increase the number of residents but reduce the number of parking spaces
13. significant increase in noise level from staff, vehicles, visitors and the general working environment of a busy large care home given the close proximity of the design to neighbouring private homes
14. trees are to be removed yet the applicant states all existing mature trees would be retained
15. not in keeping with the character and style of the existing buildings in the area, it will be too large
16. the development will increase the traffic activity in the area which will have a detrimental effect both environmentally and noise wise
17. the rear of this large building will only be some 10 metres from the side of my house. It will affect our privacy
18. will adversely affect the amount of daylight and sunlight in the rooms on the adjoining side of our house
19. problems with blocked drains, increased demands will lead to more frequent blockages
20. too big
21. unnecessary
22. parking proposed inadequate
23. construction dirt and noise
24. obstruction of view/light into objectors home
25. invasion of privacy
26. noise, traffic and pollution during building
27. does not feel that proprietors maintain grounds to high enough standards at present and this problem will be escalated
28. overpowering
29. changing the use from a small residential home to a very large commercial business
30. overbearing and threatening to adjacent properties
31. what do we need another care home

- 32. what happens if the business fails, like Tanfield Nursing home will this development be converted into flats?
- 33. blot on the landscape
- 34. block out light

#### Copy Letters F

The period for publicity expires after the Planning Committee, should any further representations be received after the writing of the report they will be reported to the committee accordingly.

#### Consultations

1.6 The following consultation replies have been received:

Traffic and Transportation – no objection

Public Protection – no objection

Adult and Community Services - no objections and have confirmed that the new development will meet the relevant standards for a care home

Engineering Consultancy – No objection a section 80 notice is required for the demolition.

Northumbrian Water – no objection subject to condition.

Police – comments regarding secured by design

#### Planning Policy

1.7 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.

GEP12: States that the Borough Council will seek within development sites, the retention of existing and the planting of additional, trees and hedgerows. Development may be refused if the loss of, or damage to, trees or hedgerows on or adjoining the site will significantly impact on the local environment and its enjoyment by the public. Tree Preservation Orders may be made where there are existing trees worthy of protection, and planning conditions will be imposed to ensure trees and hedgerows are adequately protected during construction. The Borough Council may prosecute if there is damage or destruction of such protected trees.

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.

HE12: The policy sets out the factors to be considered in determining planning applications affecting a listed locally important building. The Council will only support the demolition or alteration of locally important buildings where it is demonstrated that this would preserve or enhance the character of the site and the setting of other buildings nearby.

Hsg12: States that proposals for residential institutions will be approved subject to considerations of amenity, accessibility to public transport, shopping and other community facilities and appropriate provision of parking and amenity space.

PU9: States that community-based uses will be permitted in residential areas subject to amenity, accessibility, car parking and servicing considerations.

## **Planning Considerations**

1.8 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 terms of outlook, dominance, appearance, overshadowing and privacy and the appearance of the development in the streetscene in general. Highway safety issues also need to be considered.

## **Residential Amenity**

1.9 The site comprises a predominantly 2 storey care home, with some single storey extensions to the rear and is sited on a large plot within a residential area. There is a large tamaced area to the rear of the existing site which provides significant separation from the surrounding residential properties. The site is surrounded by a mix of houses and bungalows.

1.10 The proposed building is 2/3 storeys in height, broadly in an “I” shape. The front elevation details 3 storeys dropping to 2 storey closer to the neighbouring residential properties and is within the approximate building line of the properties fronting Stockton Road. Behind the front elevation is a 2 storey link which is centred in the site and provides a degree of separation from the neighbouring residential properties. This element is approximately 10.7m and 12.2m away from the boundary of the neighbouring residential gardens. This centred elevation links to a further 2 storey element at the rear of the site which is 4.8m from the side elevation of a neighbouring house and 18.5m from the rear of neighbouring bungalows.

1.11 While the proposed building is significantly larger than the existing building and some of the proposed bedroom windows will face onto neighbouring residential



properties and gardens, it is considered that the separation distances involved are sufficient in this instance.

1.12 Amenity space for residents is provided.

### **Impact on Street Scene**

1.13 Stockton Road is made up of a variety of styles in terms of designs of properties. Given the mix of styles of properties in the area it is considered that a new building could be accommodated satisfactorily and that it would not be out of keeping with the street scene.

### **Landscaping**

1.14 An Arboricultural Assessment has been submitted with the application which has been assessed by the Council's Landscape Team. It is proposed to remove 8 trees. 5 trees would be lost to allow the access road to be constructed fronting Stockton Road and a further 3 trees lost along the southern boundary due to conflict with the proposed buildings footprint. The Council's Arboricultural Officer considers these trees to be only fair in terms of their condition and that proposed new planting will offset their loss. Details can be controlled via condition.

### **Highway Implications**

1.15 The applicant has shown 14 spaces which based on the information provided would exceed the parking requirement for this development (12 spaces). The applicant is proposing 2 new accesses onto Stockton Road. Details can be controlled via planning condition.

1.16 The Head of Traffic and Transportation has raised no objection to the scheme.

### **Other Issues**

1.17 The Council's Engineering Consultancy Team has advised that a section 80 notice is required for the demolition of this building.

1.18 Cleveland Police have provided general comments regarding crime prevention measures which should be included within the development. Should the application be approved a condition would be required to incorporate these measures.

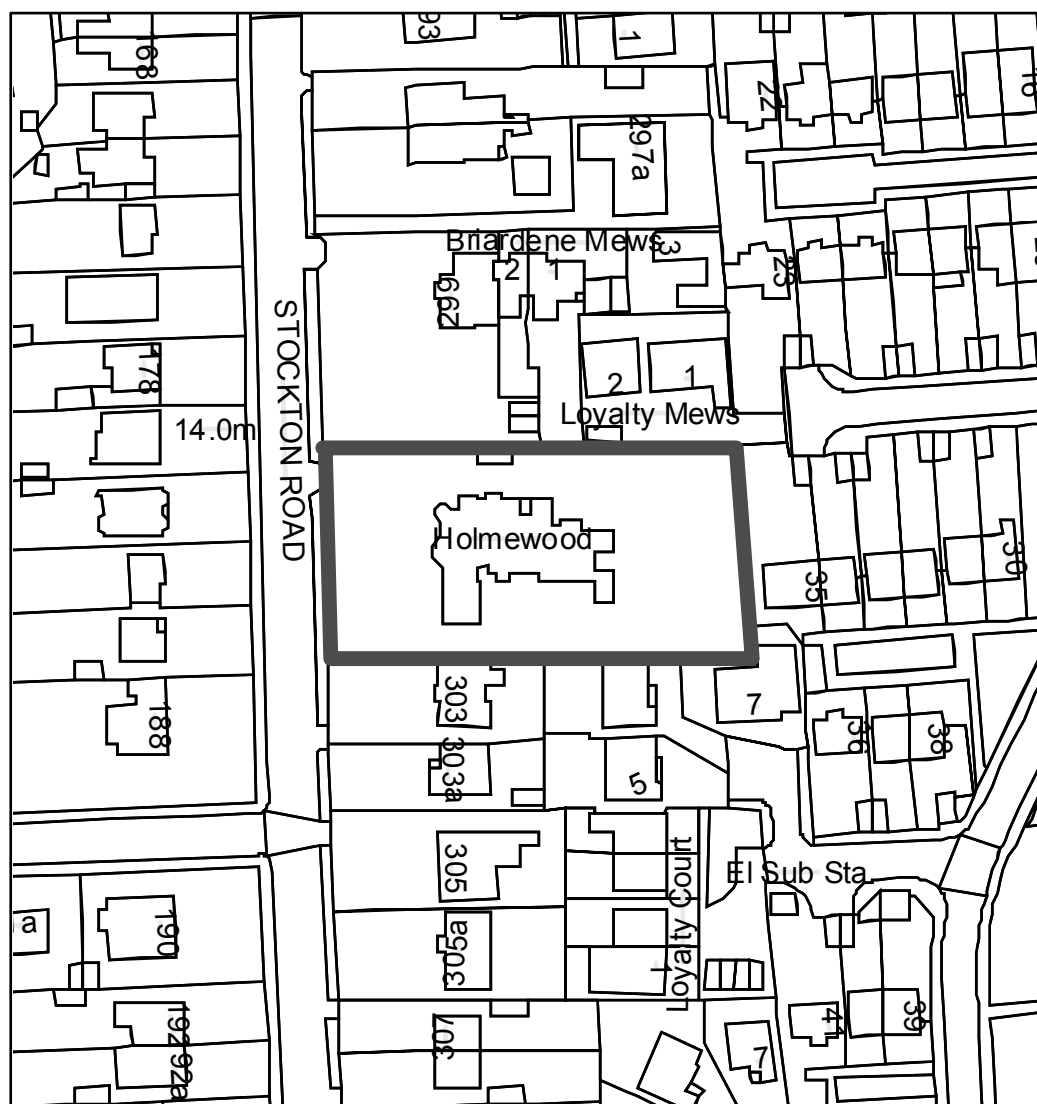
### **Conclusion**

1.19 Although the building is large on balance the proposed development is considered to be acceptable.

**RECOMMENDATION** – Minded to APPROVE subject to the following conditions, however since publicity is outstanding delegate final decision to the Development Control Manager.

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 landscaping of the site (herein after called the "reserved matters") shall be obtained in writing from the Local Planning Authority.  
To clarify the period for which the permission is valid.
3. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 6th and 7th January 2009, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt
4. For the avoidance of doubt the method statement attached to the bat survey report received on the 7th January 2009 shall be adhered to during the demolition of Holmewood, unless otherwise agreed in writing by the Local Planning Authority.  
For the protection of bats
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. Development shall not commence until a detailed 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 be carried out 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.
7. 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, unless otherwise agreed in writing by the Local Planning Authority.  
In the interest of crime prevention
8. Notwithstanding the submitted plans a scheme for refuse and cycle storage 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 interest of visual amenity and to promote sustainable forms of transport.
9. Before the development is brought into use the approved car parking scheme shall be provided in accordance with the approved details. Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.  
In the interests of highway safety.

11. A scheme to incorporate energy efficiency measures and embedded renewable energy generation shall be submitted to and agreed 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.  
To encourage sustainable development
12. All planting, seeding or turfing comprised in the finally 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.
13. 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).
14. 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.

**301 STOCKTON ROAD**

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**THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY**

<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>12/2/09</b>
	SCALE <b>1:1,000</b>	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2009/0003</b>	REV

**No:** 2  
**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

2.1 This application was last considered at the November meeting when it was deferred due to ongoing discussions.

### The application and the site

2.2 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.

2.3 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 a door is shown inserted in the rear wall of the house to connect the two. A spiral staircase will also allow access from the garden. The design has been amended from the original proposed following objections and concerns raised by Officers. The application is part retrospective.

### Planning Background

2.4 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)

2.5 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.

2.5 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.

2.6 A separate investigation has also been undertaken by the Council's Building Control Section. Building Control have confirmed that with remedial works, underpinning and the diversion of a drain, the structure could be retained.

### **Publicity**

2.7 The original proposals were advertised by neighbour notification (2).

2.8 A single letter of objection from the occupier of a neighbouring property had been received. The writer raises the following issues:

- i) Structure unduly large, aesthetically unpleasing and out of character.
- ii) Loss of light
- iii) Loss of privacy to lounge and garden.
- iv) Given its size it will be used as an entertainment space, accommodate large numbers of people resulting in noise pollution and loss of privacy.
- v) Staircase is out of keeping. Noise and loss of privacy from people using the staircase.
- vi) 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?
- vii) Lack of compliance with Health & Safety regulations during the build.
- viii) Blatant disregard for the local planning laws is unacceptable.
- ix) Request council rejects amended application and takes immediate enforcement action to remove the unauthorised works.

2.9 The amended plans have been advertised by neighbour notification. The time period for representation expires on 12<sup>th</sup> March 2009. At the time of writing no representations had been received.

Copy letters G

### **Consultations**

2.10 The following consultation response have been received to date.

**Parish Council** - No comments to make

## Planning Policy

2.11 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

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

### Design

2.13 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

2.14 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 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.

2.15 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 or in terms of any

overbearing effect. In terms of privacy and issues relating to general disturbance, the balcony will be located close to the garden boundary and potentially its use could have an intrusive impact on the immediate neighbour in particular (1 Delamere). In order to address these concerns the applicant has amended the design. A 1.8m screen wall has been erected on the side/corner facing the nearest neighbour. This should limit noise breakout to a degree. It should also effectively screen views towards the neighbour's house and all but the end of the neighbour's garden. The spiral staircase has also been moved to the corner of the balcony furthest from the closest neighbour and again this should effectively limit views to all but the end of the neighbour's garden. Two small window in the toilet will also face the boundary however these are small ground floor windows serving a toilet and closer views are possible from the garden at ground floor, it is not considered therefore that these windows raise significant privacy issues.

2.16 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 or any issues relating to over dominance.

#### Other matters

2.17 The objector has raised 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.

#### Conclusion

2.18 It is considered that the amended plans are acceptable and the application can now be recommended for approval.

**RECOMMENDATION** – APPROVE subject to the following conditions:

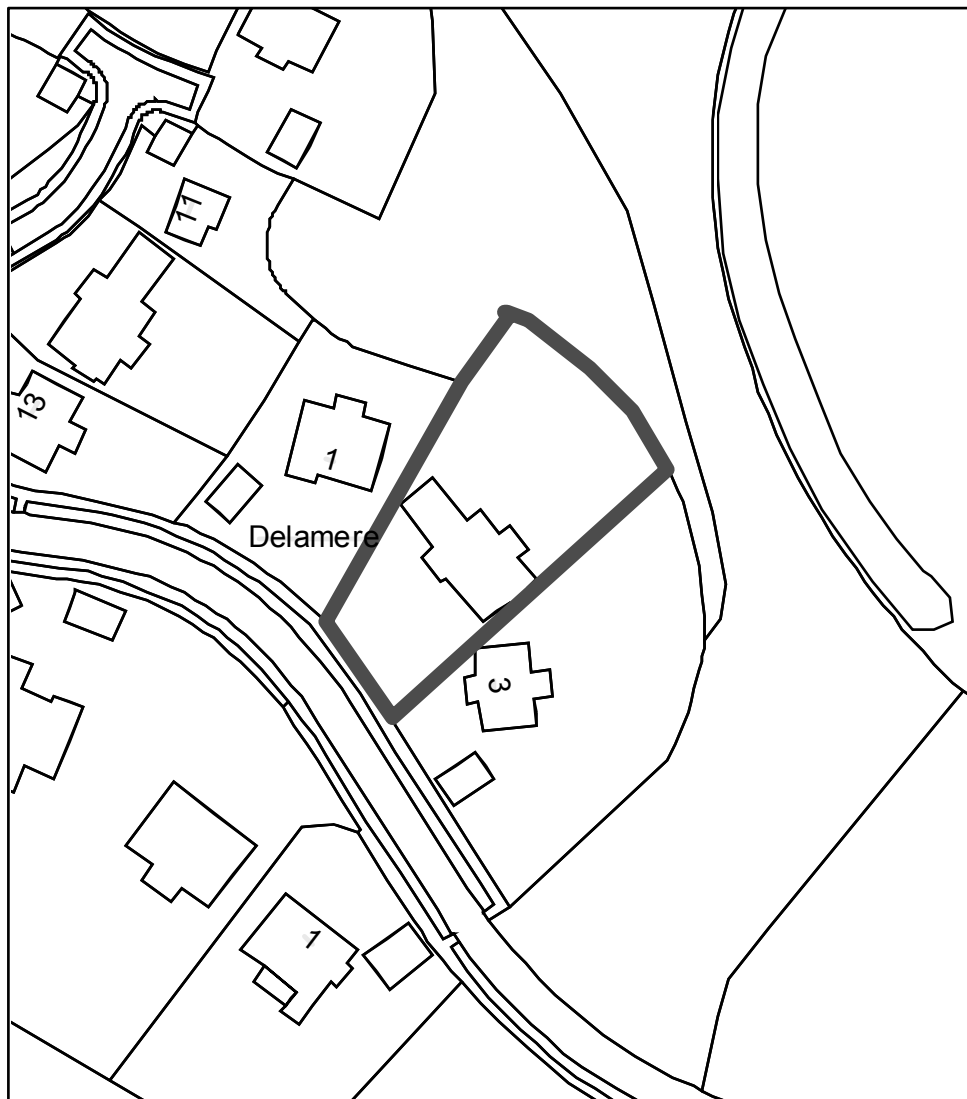
1. The development hereby approved shall be carried out strictly in accordance with the amended plan(s) no(s) 05E, 06E, 09E, 14A and 15A received on 27th February 2009, unless otherwise agreed in writing by the Local Planning Authority  
For the avoidance of doubt.
2. Prior to the balcony being brought into use the screen wall shown on the approved plans shall be erected and shall be retained at all times for the lifetime of the development. The screen wall shall be 1.8m in height measured from the finished floor level of the balcony. It shall not be altered without the prior written consent of the Local Planning Authority.



To prevent overlooking

3. The external materials used for this development shall match those of the existing building(s) unless otherwise agreed in writing with the Local Planning Authority.  
In the interests of visual amenity.

## 2 Delamere



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

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

**No:** 3  
**Number:** H/2009/0033  
**Applicant:** Mr L Nicholls The Front Seaton Carew Hartlepool TS25 1BS  
**Agent:** Business Interiors Group 73 Church Street HARTLEPOOL TS24 7DN  
**Date valid:** 16/01/2009  
**Development:** Change of use and alterations to provide restaurant  
**Location:** 15 -18 THE FRONT SEATON CAREW HARTLEPOOL HARTLEPOOL

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### The Application and Site

3.1 The application site is a terrace of buildings on the west side of The Front. The buildings are currently vacant but benefit from a planning permission for their change of use to a public house (H/FUL/0681/04) and for a rear sunroom extension (H/2007/0508). The site is within the Seaton Carew Conservation Area and the buildings have recently been refurbished these works have been funded in part through the Heritage Economic Regeneration Scheme. The buildings range in height from two to three storeys. To the rear is an enclosed yard which is accessed via an alleyway from The Front and via fire doors from the amusement arcades which, along with the buildings to which the application relates, enclose the yard. The buildings stand at the centre of a complex of amusement arcades which abut the site to the north, south and west.

3.2 The character of the area in the immediate vicinity is largely commercial. As well as the amusement arcades and the public house referred to below there are various hot food takeaways, shops and a tanning studio. To the east on the other side of the street is the Longscar Centre which includes a public house. Beyond the intervening amusement arcades to the north of the site, some 35m away, are two terraces of dwellinghouses. To the west, beyond the intervening amusement arcades is a sheltered housing complex (Major Cooper Court). The closest flat is some 15m from the application site. To the southwest, again beyond the intervening amusement arcades, some 45m away there are residential properties on Charles Street.

3.3 Full planning permission is sought to change the use of the premises to a restaurant. The restaurant will be accommodated largely on the ground floor of 15-18 The Front and in a small part of the adjacent amusement arcade. There will be open access between the two. It is also proposed to utilise a courtyard to the rear of the premises for alfresco dining. The only external alterations proposed involve the insertion of a pair of double doors to the rear of the buildings to allow for access to the internal courtyard. The submitted drawings show internal alterations to the amusement arcade will be undertaken, as these are internal works and the use will not change planning permission is not required for these works, save for the insertion of windows into a building wall on the west side of the courtyard. The applicant has confirmed he does not wish these alterations to be considered in the

current application. The upper floors of the building will not be used as part of the restaurant and will be kept vacant or used for ancillary storage.

### **Recent Planning History**

3.4 In December 2004 an application for the change of use and alterations to provide ground and first floor licensed premises and a beer garden at 15-17 The Front, Seaton Carew was refused against officer recommendation for the following reason (H/FUL/0681/04) (the application had been amended to exclude the beer garden):

- i) It is considered that the proposed use would lead to an increase in noise and general disturbance to the detriment of the amenities of the occupiers of nearby residential properties contrary to policies Gen1, Ec28 and Co2 of the adopted Hartlepool Local Plan 1994 and policies GEPI and HE1 of the draft deposit Hartlepool Local Plan 2003.
- ii) It is considered that service vehicles would park on The Front, the major access road in Seaton Carew, to the detriment of highway safety and the free flow of traffic contrary to policy Gen I of the adopted Hartlepool Local Plan 1994 and policy GEPI of the draft deposit Hartlepool Local Plan 2003.

3.5 The applicant appealed against this decision. The Inspector allowed the appeal concluding that the development would not significantly affect the living conditions of nearby residents in terms of noise and disturbance nor adversely affect highway safety.

3.6 An application for the display of illuminated fascia signs, a projecting sign and window signs was approved on 14<sup>th</sup> December 2004. (H/ADV/0682/04).

3.7 In September 2007 planning permission was granted to erect a single storey sunroom to the rear of the premises in the enclosed yard. (H/2007/0508)

### **Publicity**

3.8 The application has been advertised by way of neighbour letters (51). To date, there have been two letters of no objection, one letter where the writer's view is not stated and three letters of objection received. The objectors raise the following issues:

- 1) Car parking and noise late at night
- 2) Too many restaurants already
- 3) Antisocial behaviour from patrons

Copy Letters B

The time period for representations has expired.

## Consultations

3.9 The following consultation replies have been received:

**Public Protection:** I would have no objections to this proposal subject to an hours restriction to no later than midnight and an extract vent condition.  
I would require a condition restricting the use of the external eating area to no later than 9:00pm and a condition prohibiting the provision of amplified music to the outside seating area.

**Traffic and Transportation:** The proposed development is located within Seaton Carew central car parking area; there are no parking requirements for this development. The main concerns with this application are the servicing arrangements and the refuse. A condition will be required that the servicing for this development takes place before 11am to avoid possible double parking on The Front, which would have highway safety implications. There are no details of where the refuse is to be stored, further information is required on this matter. Providing the condition for the servicing is in place and refuse details are satisfactory there are no major highway implications with this application.

**Health & Safety Executive:** No objections.

## Planning Policy

3.10 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.

Com6: States that the Borough Council will encourage environmental and other improvement and enhancement schemes in designated commercial improvement areas.

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.

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.

HE1: States that development will only be approved where it can be demonstrated that the development will preserve or enhance the character or appearance of the Conservation Area and does not adversely affect amenity. Matters taken into account include the details of the development in relation to the character of the area, the retention of landscape and building features and the design of car parking provision. Full details should be submitted and regard had to adopted guidelines and village design statements as appropriate.

HE2: Encourages environmental improvements to enhance conservation areas.

HE4: Identifies the circumstances in which demolition of buildings and other features and structures in a conservation area is acceptable - where it preserves or enhances the character or appearance of the conservation area, or its structural condition is such that it is beyond reasonable economic repair. Satisfactory after use of the site should be approved and committed before demolition takes place.

Rec13: States that late night uses will be permitted only within the Church Street mixed use area, or the southwest area of the Marina subject to criteria relating to amenity issues and the function and character of these areas. Developer contributions will be sought where necessary to mitigate the effects of developments.

To3: States that commercial and leisure developments within this area will be permitted where they are sympathetic to the character of the area and in keeping with its development as a seaside resort.

## **Planning Considerations**

3.11 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals within the Hartlepool Local Plan, the impact of the development on the amenity of the occupiers of nearby residential properties, design/impact on the character and appearance of the Conservation Area and highways.

### Policy

3.12 The site lies in the main commercial area of Seaton Carew, within the core area as defined by Policy To3 of the Hartlepool Local Plan, where commercial and leisure developments in keeping with the character of the area and the development of

Seaton Carew as a seaside resort will normally be permitted. In policy terms the principle of the development is considered acceptable.

Impact on the amenity of occupiers of nearby residential properties

3.13 A number of objections have been received from local residents on the grounds that the development will affect the amenity of the area. In particular concerns have been raised in relation to late night noise, disturbance and antisocial behaviour connected with the premises and its patrons.

3.14 The site is located in the main commercial area for Seaton Carew it is largely surrounded by commercial properties and there are a number of licensed premises already operating along the Front though they are residential properties in the vicinity. In particular the sheltered housing at Major Cooper Court to the rear. The Head of Public Protection has not objected to the proposal subject to conditions. It should also be noted that the site currently benefits from a planning permission for use as a licensed premises (H/FUL/0681/04), this permission allowed on appeal, was approved on the basis that the use would be a mixed use as a public house and a restaurant and could still be implemented. The current proposal includes the use of the yard for alfresco dining which was not a part of the previous approval however it is considered that overall a use as a licensed restaurant would arguably be a more benign use than that allowed on appeal.

3.15 In terms of indirect nuisance/anti social behaviour which might be caused by patrons in the wider vicinity this is a difficult issue to address. It is a common concern in residential areas which are on the fringe of the commercial areas of towns and cities and whilst appreciating the annoyance such activity can cause, residents who live in such areas will inevitably experience a degree of disturbance. The site is in the core area of Seaton Carew where there are a number of other licensed premises and where one would expect to find them. The premises front onto the main street and there is no direct access to residential areas from the premises itself. The Head Of Public Protection has not objected on these grounds and it is not considered that the proposal could be resisted for these reasons.

3.16 It is considered that the proposed use is acceptable in terms of its impact on the amenity of residents.

Design/impact on the character and appearance of the Conservation Area

3.17 The building is within the Seaton Carew Conservation Area and has recently been refurbished with the assistance of grant aid. The external alterations proposed are limited to the insertion of a set of double doors in the rear elevation. The proposals will hopefully bring this building finally into use and the Conservation Officer has raised no objections to the proposal.

Highways

3.18 The proposed development can incorporate no off street parking however the development is located within the Seaton Carew central car parking area and there

are no requirements for developments to accommodate car parking within this area. In relation to refuse arrangements the applicant has confirmed refuse would be stored in the existing refuse area which serves the amusement arcades. Traffic & Transportation have been asked to confirm that this is acceptable and their comments area awaited. Traffic and Transportation have asked that servicing for this development takes place before 11am to avoid possible double parking on The Front, which would have highway safety implications, this is agreeable to the applicant and an appropriate condition is proposed. Subject to appropriate conditions the proposal is considered acceptable in highways terms.

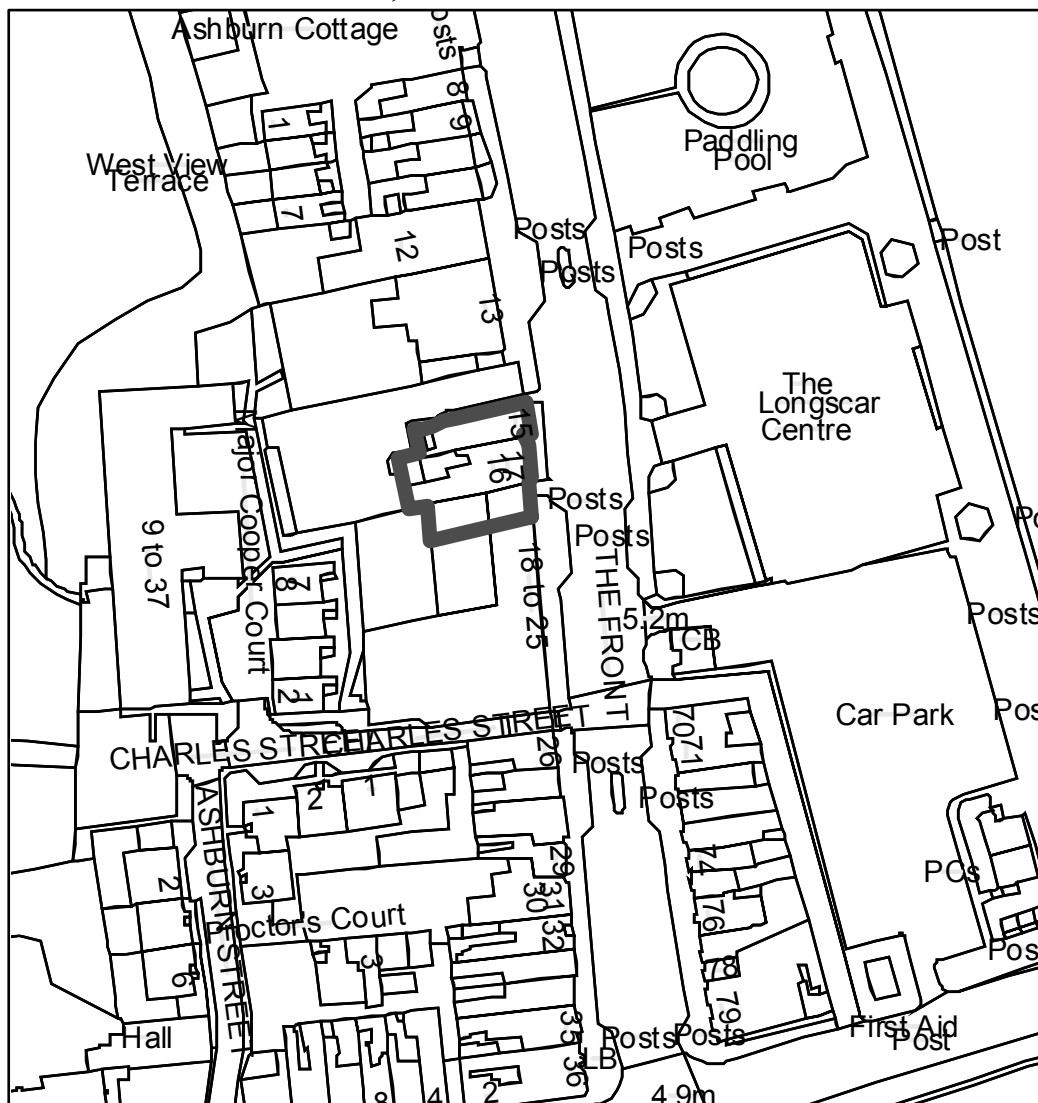
**RECOMMENDATION** – APPROVE subject to the following conditions:

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 use hereby approved shall not commence until proposals for the storage of refuse within the site have been submitted to and approved in writing by the Local Planning Authority and all such approved details have been implemented.  
In the interests of the amenities of the occupants of neighbouring properties.
3. The premises shall be used only as a restaurant as defined by Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as ammended or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.  
In the interests of the amenities of the occupants of neighbouring properties.
4. No deliveries shall be taken at the premises outside the hours of 07:00 to 11:00 each day.  
In the interests of highway safety.
5. The premises shall only be open to the public between the hours of 08:00 and 24:00.  
In the interests of the amenities of the occupants of neighbouring properties.
6. Prior to the commencement of development details of the proposed rear doors shall be submitted to and approved in writing by the Local Planning Authority. The doors shall thereafter be installed in accordance with the details so approved.  
For the avoidance of doubt.
7. This approval does not include the approval of the alterations to the buildings on the west side of the courtyard shown on the approved plan.  
For the avoidance of doubt.
8. The external dining area/rear courtyard area shall not be open to the public, or used as an amenity area, after 21:00 on any day. The proposed rear door giving access to the area shall remain closed after 21:00 hours on any day.  
In the interests of the amenities of the occupants of neighbouring properties.
9. No music shall be played in, or be piped/relayed to, the external dining area/ rear courtyard.  
In the interests of the amenities of the occupants of neighbouring properties.
10. The use hereby approved shall not commence until there have been submitted to and approved in writing by the Local Planning Authority plans and details for ventilation filtration and fume extraction equipment to reduce



cooking smells, and all approved items have been installed. Thereafter, the approved scheme shall be retained and used in accordance with the manufacturers instructions at all times whenever food is being cooked on the premises.

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

**15-18 THE FRONT, SEATON CAREW**

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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>12/2/09</b>
	SCALE <b>1:1,000</b>	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2009/0033</b>	REV

**No:** 4  
**Number:** H/2009/0017  
**Applicant:** Housing Hartlepool Stranton Hartlepool TS24 7QS  
**Agent:** Hartlepool Housing Greenbank Stranton Hartlepool TS24 7QS  
**Date valid:** 08/01/2009  
**Development:** Provision of communal bin storage areas  
**Location:** 2-12, 9-19, 21-31 LEWIS GROVE, 58-80 (EVENS), 193-203 (ODDS) MACAULAY ROAD 2-48 (EVENS) PINERO GROVE, 18-40 (EVENS) SINCLAIR ROAD HARTLEPOOL

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### The Application and Site

4.1 The application site consists of a number of two-storey block buildings comprising self-contained flats with communal areas. The properties are located on Lewis Grove, Macaulay Road, Pinero Grove and Sinclair Road within the Rift House area of Hartlepool.

4.2 The properties on Pinero Grove benefit from a small amount of communal open space towards the front of the blocks, bounded by 0.75m walls abutting the footpath. There are terraced properties opposite the block with bungalows facing the eastern gable of the properties. The application proposes the siting of bin stores on both the northern and southern elevations of the block.

4.3 The properties on Sinclair Road again benefit from minimal external communal space to the front, and face onto two-storey terraced properties opposite the block on Sinclair Road.

4.4 There are two blocks on Macaulay Road included as part of this application, with no. 58-80 (evens) facing the gable elevations of the single storey properties (no. 29 and no. 233) on Sinclair Road opposite. No. 193-203 (odds) Macaulay Road face onto the gable end of no. 2 Scott Grove.

4.5 The properties on Lewis Grove with no. 2-12 (evens) are set back substantially from the highway with significant distance between the other properties on Lewis Grove. No. 9-31 (odds) adjoins the aforementioned properties on Sinclair Road and face onto the semi-detached properties on Lewis Grove (1-7 odds), with the area between characterised by open space and mature trees.

4.6 The application seeks consent for the siting of six bin stores set on a concrete base to the front elevation of each block of flats. The stores will measure 1.4m in height, 0.67m in width and 0.85m in depth. The bin stores will be secured by dead lock with individual keys. It is indicated that at present, refuse is being sited within the communal areas causing health and safety issues.

4.7 The proposed bin stores are of a similar design and size to those proposed within various Housing Hartlepool upgrade schemes recently approved at 19-26 Danby Grove (H/2009/0055) and 26-40 Drayton Road, 1-8 Nash Grove and 2-16 Homer Grove (H/2009/0037).

## Publicity

4.8 The application has been advertised by way of neighbour letters (34). To date, there have been 1 non-objection and 3 letters of objection.

4.9 The concerns raised are:

- i) Noise disturbance to neighbouring properties and existing occupiers;
- ii) Excessive odour pollution;
- iii) Concerns with excess waste being dumped;
- iv) Rubbish should be kept to the rear;
- v) Don't want to be looking at dust bins and the mess they cause;
- vi) Layout and siting is inappropriate and unsympathetic to the appearance of local environment;
- vii) Storage area, by reason of its size and siting is an un-neighbourly form of development and would have an adverse impact;
- viii) Storage area would be out of keeping with the design and character of the existing properties, would have an adverse effect on the visual amenity;
- ix) The storage area is out of keeping with the area.

4.10 The period for publicity has expired.

## Consultations

4.11 The following consultation replies have been received:

**Traffic and Transportation** – There are no major highway implications with this application.

**Public Protection** – No objections.

## Planning Policy

4.12 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.

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.

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**

4.13 The main planning considerations in this instance are the appropriateness of the proposals in relation to the relevant Hartlepool Local Plan Policies (2006), in particular the impact of the proposals on the amenity of neighbouring properties, the impact on the character of the street scene, and the impact on highway safety.

### **Impact on Amenity of Neighbouring Properties**

4.14 It is considered that the layout and siting of the bin stores is appropriate in this instance. The bin stores are modest in size and would not unduly affect the amenity of the surrounding area. The proposals will contribute towards negating issues of health and safety and are unlikely to have an adverse impact on neighbouring residents.

4.15 With regard to the properties in Pinero Grove, it is considered that there is appropriate separation distance (between 16-22m) between the proposed location of the bin stores and the neighbouring properties which is occupied by curtilage and highway.

4.16 The properties on Sinclair Road are approximately 22m from the terraced properties opposite also on Sinclair Road. It is therefore considered that there is sufficient distance between the proposed bin stores and the neighbouring properties on Sinclair Road.

4.17 The proposed bin storage areas on Macaulay Road face onto the gable ends of properties on Sinclair Road (no.29), Macaulay Road (no.233) and Scott Grove (no.2). It is therefore considered that the proposed bin storage areas are unlikely to have an impact on the amenity of neighbouring properties.

4.18 The properties at no. 2 to 12 (evens) Lewis Grove have a significant separation distance of approximately, 32m, facing the gable ends of the properties on Masfield Road and are therefore considered to have little impact on the amenity of neighbouring properties.

4.19 The properties at no. 9-31 (odds) Lewis Grove have a separation distance of approximately 20m between the properties opposite on Lewis Grove. There is also an area of open space characterised by a large mature tree to the centre. It is

therefore considered that there is sufficient separation distance and screening to negate any impact of the proposed bin stores on the amenity of the neighbouring properties.

#### Impact on Street Scene

4.20 The bin stores are of a size and design as to appear subservient to the flats, and are unlikely to impact on the character of the street scene. The stores are proposed to tie-in with the previous external alterations undertaken to the front of the properties. It is therefore considered the bin stores are appropriate in this instance and would not appear incongruous or unduly affect the character of the street scene.

#### Highways

4.21 The Council's Traffic and Transportation section have indicated that there are no highway implications associated with this application. It is therefore considered that the proposals will not have a detrimental impact on highway safety.

#### Other Issues

4.22 In relation to the concerns raised by neighbours regarding noise, it is considered that the use of the bin stores would not unduly increase existing noise levels. It is considered that the noise levels would not be unduly different from noise levels associated with residential properties of such a nature. With regard to concerns over odour, it is considered that the proposal would not result in excessive odours to the detriment of neighbouring residents. The Council's Public Protection section has raised no objections to the proposals.

4.23 The risk of excessive dumping of waste can be controlled and dealt with by the Council's Waste Management section. With regard to the preferred siting of waste to the rear, as the applicant has indicated, the waste is to be stored as indicated to facilitate the collection of waste which is from the front of the properties and in addition to negate potential health and safety issues.

#### Conclusions

4.24 With regard to the relevant policies contained within the Hartlepool Local Plan (2006) as outlined above, and with regard to the main planning considerations as highlighted above, the proposal is considered satisfactory and therefore recommended for approval subject to the conditions set out below.

**RECOMMENDATION** – APPROVE subject to the conditions set out below:

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.

### Pinero Grove, Macaulay Road, Sinclair Road and Lewis Grove



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>12/03/2009</b>
	SCALE <b>1:1500</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2009/0017</b>	REV

**No:** 5  
**Number:** H/2008/0625  
**Applicant:** Mr . HALL VISCOUNT CLOSE TS24 0UN  
**Agent:** Anglian Home Improvements Conservatories Division PO  
Box 65 NORWICH NE6 6EJ  
**Date valid:** 17/10/2008  
**Development:** Erection of a rear conservatory  
**Location:** 25 VISCOUNT CLOSE HARTLEPOOL HARTLEPOOL

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### **The Application and Site**

5.1 The site to which this application relates is a detached property with gardens to the front and rear in Viscount Close, a predominantly residential area. The properties on the estate are all protected from gas ingress, associated with the sites former use, by way of a hydrocarbon resistant organic vapour barrier (gas membrane) installed in the foundations.

5.2 The application seeks retrospective permission for the erection of a conservatory to the rear of the property. The conservatory projects 2.9m from the rear of the main dwellinghouse at a width of 4.9m. The roof measures 2.1m at the eaves with a maximum height of approximately 3.4m.

### **Publicity**

5.3 The application has been advertised by way of neighbour letters (2). To date, there have been no letters of objection.

5.4 The period for publicity has expired.

### **Consultations**

5.5 The following consultation replies have been received:

**Engineering Consultancy** - The original properties are protected from TPH vapours by the installation of a hydrocarbon resistant organic vapour barrier (Visqueen GX Membrane) and a passive ventilation layer below the foundations consisting of a 300mm thick granular vapour blanket and 100mm diameter slotted gas drains at 2m centres. The drawings provided in the application do not mention this protection system and it is imperative that the extension should be provided with the same degree of protection. The installation of these measures should be carried out by a suitably experienced contractor and verified by a suitably experienced and independent person who shall confirm the suitability of the granular blanket and jointing, lapping, installation and integrity of the membrane. A suitably worded planning condition is required to cover this.



## Planning Policy

5.6 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.

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

5.7 The main issue for consideration when assessing this application is the appropriateness of the proposal in terms of the policies and proposals held within the Hartlepool Local Plan. The scale and design of the proposal is considered appropriate and it is not considered that the development unduly affects the amenity of neighbouring properties. The development is in accord with the guidance held within the aforementioned Local Plan.

5.8 The application has been brought before Planning Committee as the conservatory has been erected without the benefit of a relevant permission. The conservatory was in situ upon the officer's site visit (12/11/08). The Local Planning Authorities (LPA's) Engineering Consultancy Section has stated that the conservatory should be/have been fitted with a gas membrane within its foundations. Such membranes once fitted act as a method of preventing the ingress of potentially harmful gasses into the development and associated home.

5.9 Should the conservatory have been constructed without the benefit of a suitable membrane or the membranes installation was not appropriate this raises severe health and safety concerns for the occupants of the dwellinghouse and the surrounding properties.

5.10 The Local Planning Authority is in contact with the agent with a view to providing sufficient evidence to suggest that the conservatory has been constructed to an appropriate standard. No information regarding construction methods has been received at the time of writing this report it is still awaited. Should any information be received the LPA's Engineering Consultancy Section will examine it to determine if any further action is required.

## RECOMMENDATION – Update to Follow

## 25 Viscount Close



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>12/03/2009</b>
	SCALE <b>1:1000</b>	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2008/0625</b>	REV

**No:** 6  
**Number:** H/2009/0102  
**Applicant:** Headland Development Trust Northgate Hartlepool  
 TS24 0JT  
**Agent:** SJD Architects Ltd Hampdon Hopuse Falcon Court  
 Westland Way Preston Farm Business Park Stockton on  
 Tees TS18 3TS  
**Date valid:** 26/02/2009  
**Development:** Erection of a new performing arts centre with associated  
 car parking and landscaping  
**Location:** ST HILDS C OF E SCHOOL KING OSWY DRIVE  
 HARTLEPOOL HARTLEPOOL

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## The Application and Site

6.1 The site to which the application relates to is land adjacent to and within St Hild's C of E School on King Oswy Drive. The application site measures approximately 4700 square metres. The total area covered by the proposed buildings is approximately 750 square metres.

6.2 The site is bounded to the west by residential properties on Tempest Road, to the south by playing fields, to the east by car parking associated with the school and to the north by King Oswy Drive.

6.3 The application seeks consent for the erection of a new performing arts centre (New Life Centre) with associated car parking within the site for 41 vehicles, 2 of which will be allocated for people with disabilities. The application also makes provision for a landscaping scheme.

6.4 The New Life Centre would comprise a two storey building for use by the local communities. The building would comprise the following:

- An information Computer Technology (ICT) suite;
- Drama and dance studios
- Café and social facilities
- Media and TV studio
- An entrance gateway and landscaped areas from King Owsy Drive

6.5 The building has a broadly L-shape design incorporating a mixture of one and two storeys. The focal point of the building will be the entrance which will be predominantly glazed. The proposed building will be constructed using materials which will give the building a modern appearance (aluminium, brick, timber and render). Also proposed is a biomass generator, which provides a more environmentally friendly heating option.

6.6 The site at present is currently laid to grass. However it was previously the site for a sports hall as part of the Henry Smith secondary school. There is currently a

steel container and a micro wind turbine on site, as part of the St Hild's school's eco-project to which planning permission was recently granted (H/2008/0382). Clearly if the development proceeds this project will have to be relocated.

6.8 Along with the associated plans and elevations this application has been accompanied by a Design and Access Statement, Transport Assessment incorporating a Travel Plan statement, a Planning Policy statement and a copy of a Sustainability Assessment. Plans will be displayed at the meeting.

### **Publicity**

6.9 The application has been advertised by way of neighbour letters (23), site notice (1) and press advert. To date, there have been 2 letters of no objection and 2 letters of objection.

6.10 The concerns raised are:

1. Location of proposed development
2. Noise associated with development
3. Obscure view
4. Loss of light
5. Proximity to houses
6. Hours of opening
7. Litter
8. Attraction of youths to use

Copy letters C

6.11 The period for publicity expires after the meeting.

### **Consultations**

6.12 The following consultation replies have been received:

**Northumbrian Water** – No objections

**Head of Public Protection** – Awaiting Response

**Head of Property Services** - Awaiting Response

**Engineering Consultancy** - Awaiting Response

**Community Services** - Awaiting Response

**Neighbourhood Services** - Awaiting Response

**Sport England** - Awaiting Response

**Clerk to the Headland Parish Council** - Awaiting Response

**Traffic and Transportation** - Awaiting Response

**Children's Services** - Awaiting Response

**Cleveland Police** - Awaiting Response

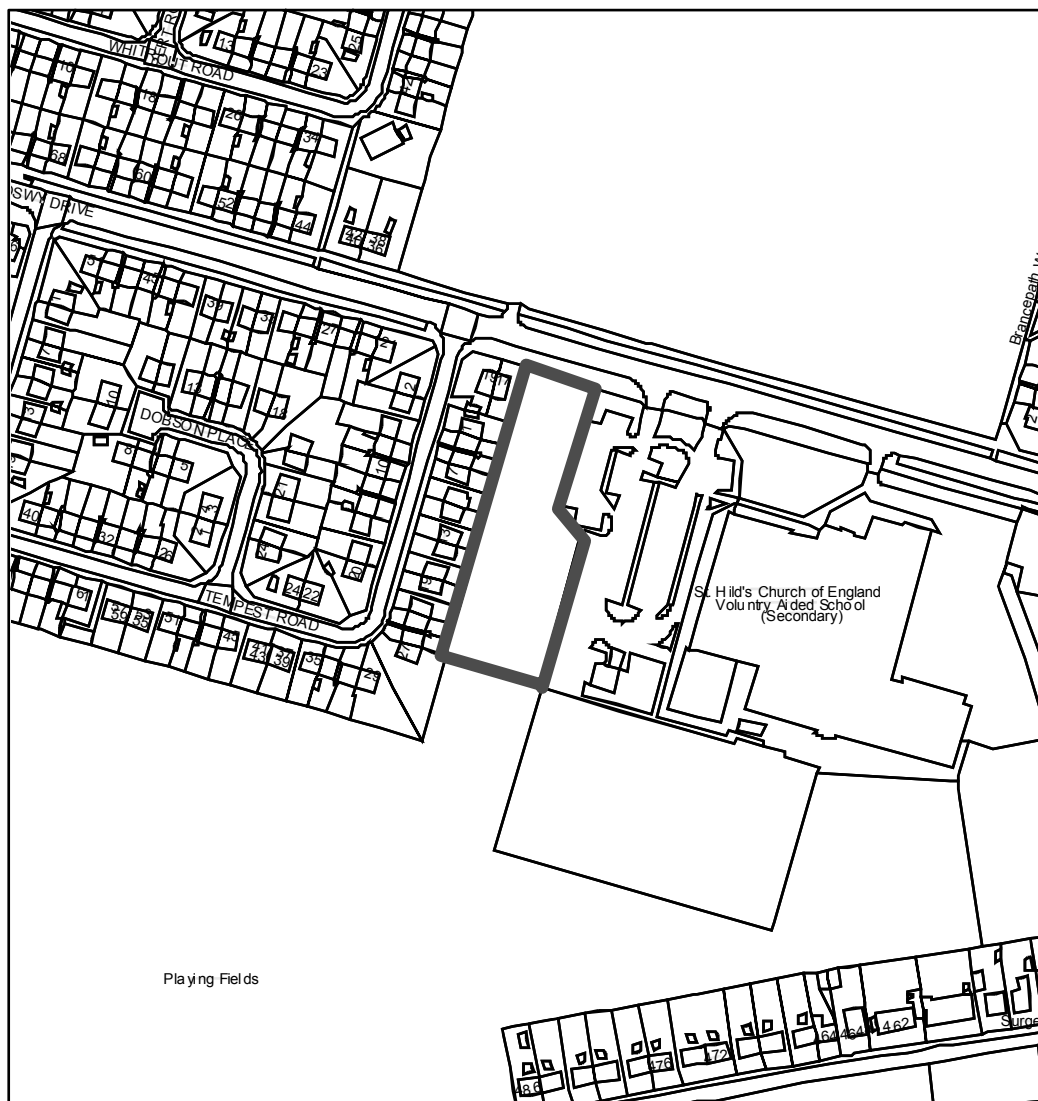
### **Planning Policy**

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

### **Planning Considerations**

6.14 This is a major application still at the early state of consideration, However while the development is to be welcomed its siting needs careful consideration given its relationship to neighbouring houses. It is for this reason that a site visit has been suggested.

**RECOMMENDATION** – Defer for a Members' site visit

**St Hild's School**

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**THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY**

<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>11/03/2009</b>
	SCALE <b>1:2000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2009/0102</b>	REV

**No:** 7  
**Number:** H/2008/0703  
**Applicant:** Aldi Stores  
**Agent:** Turley Associates Ms Lydia Sadler 33 Park Lane Leeds LS1 2PY  
**Date valid:** 07/01/2009  
**Development:** Erection of food store with associated access, car parking and landscaping  
**Location:** LAND WEST OF CLARK STREET AND NORTH OF BURBANK STREET HARTLEPOOL

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### The Application and Site

7.1 The site is an almost rectangular piece of waste land bounded by Stockton Street, Burbank Street and Clark Street. At the western end of the site are a number of advertisement hoardings. Bounding the site to the north is the Royal Mail sorting office and to the north east on the opposite side Ward Jackson Primary School. To the east is Clark Street and beyond the end gable of a terrace of residential properties which front onto Burbank Street. To the south on the other side of Burbank Street are a number of commercial units. The site is opposite the Stranton Conservation Area which encompasses the brewery buildings on the other side of Stockton Road.

7.2 It is proposed to erect a 1600 square metre gross Aldi foodstore with associated car parking, access and landscaping. The food store will be located at the north western end of the site. The pedestrian access to the building will be in the south west corner of the building with servicing at the eastern end. Vehicular access will be taken from Stockton Road with egress and an additional access from Clark Street. Pedestrian access will be from Stockton Road, Burbank Street and Clark Street. The site will incorporate car parking for 80 cars, landscaping, and will be enclosed by walls and railings fronting Stockton Road with a railing details elsewhere. Footpaths will be improved and a new raised bus stop provided. The radius of the kerb at the junction of Burbank Street and Clark Street will be improved. A new pedestrian crossing will be accommodated across Stockton Road incorporating drop kerbs and railings.

### Recent Planning History

7.3 In March 2006 an application for outline planning permission for a class A1 retail store of 929 square metres, on the southern half of the current site was refused (H/FUL/0347/05). The application was speculative and no end user has been identified. The application was refused for reasons relating to policy/impact on the town centre, failure to demonstrate need/ a sequentially preferable site was not available and accessibility, and that the development would prejudice the redevelopment of the land to the north which was not included in the site. This land is included within the current application site.

7.4 In March 2001 an application was received for outline planning permission for the erection of a non food retail unit (929 sq m) on the application site (H/OUT/0124/01). A number of issues arose during the consideration of the application which delayed its determination. In particular policy considerations, pending the completion of a retail study commissioned as part of the Local Plan review, and the effect of the development on the adjoining undeveloped site to the north. In January 2002 the applicant appealed against the non determination of the application. In June 2002 The appeal was dismissed the Inspector concluding that the proposed development “would cause some harm to the vitality and viability of Hartlepool town centre, which would result in a degree of conflict with the development plan”. He also identified that a sequentially preferable site in a more convenient location was available at the allocated town centre extension at Park Road. He concluded “when account is taken of the sequential approach in PPG6, this alone is enough to indicate that planning permission should be refused”. In relation to the location of the site the Inspector concluded that whilst close to the town centre it was separated from it by a busy dual carriageway which makes it appear remote from the town centre and makes movement between the two difficult. As a consequence he considered that the proposed development would not function well as an extension to the town centre.

### **Publicity**

7.5 The application has been advertised by site notice, neighbour notification (52) and in the press. The time period for representation has expired. Six letters of no objection and one letter of objection have been received. The letter of objection is from the Head Teacher of Ward Jackson Primary School. She raises the following issues:

- 1) Supports the building of the store and recognises the benefits of development for the community and the regeneration of the area.
- 2) Concerns already at high levels of traffic congestion on Clark Street. Concerned in relation to highway safety as access onto Clark Street opposite school pedestrian access is proposed.
- 3) Does not want access onto Clark Street. Would like possibility of main access/exit to be from Stockton Road with possible heavy goods vehicles access/egress onto Burbank Street with these vehicles using Thompson Street/Green Street route only.

Those supporting the development raise the follow issues:

- 1) Please ensure papers, milk, bread, sandwiches, drinks are sold.
- 2) Aldi may want to make a donation to the Local Burbank Forum for community facilities.
- 3) Delighted to have a local shop.
- 4) Delighted path on Burbank Street will be replaced.
- 5) Like new pedestrian crossing.
- 6) Would like to see a 20mph restriction on Clark Street past the school.



Copy letters D

## Consultations

7.6 The following consultation responses have been received.

**Engineering Consultancy:** Request that standard planning condition relating to contamination be attached to any approval.

**Northumbrian Water:** No objections request condition requiring that no development commence until a detailed 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.

**Traffic & Transportation:** The proposed access coming from the A689 is acceptable from a highway terms. A condition will be required that no direct access from the proposed development onto A689 will be required. The proposed pedestrian crossing points on Stranton are acceptable and should reduce the number of places where pedestrians cross Stranton and reduce the risk of an accident. The fencing works to be carried out by credited RASWA contractor. A condition will be required that the proposed fencing along A689 and pedestrian crossing are in place before the development becomes operational in the interest of pedestrian safety. The access onto Clark Street is acceptable. The works to the junction of Burbank Street/Clark Street and Stranton to be carried out by credited RASWA contractor. Parking restriction will be required on Clark Street and Burbank Street at the expense of the developer. These should be in place before the development becomes operational. The existing bus stops on Burbank Street to be upgraded to provide low floor bus kerbs at the developer expense. The footpath along the development boundaries of Clark Street and Burbank should be upgraded from flags to tarmac and old access points removed. The disabled parking bay closest to the A689 entry should have a minimum 6 metres clearance to the rear of the bay.

**Public Protection:** I have no objections to this proposal. I would however require a planning condition requiring all delivery vehicles to turn left onto Clark Street in order to minimise any impact on the end terraced property at 186 Burbank Street which is very close to the junction of Burbank Street and Clark Street.

**Environment Agency:** The site has been subject to a potentially contaminative use i.e. a car repair workshop. The site is located in a sensitive environmental setting as it lies on the Magnesium Limestone Aquifer. Object on the grounds that insufficient information has been submitted to demonstrate that the risk of pollution to controlled waters is acceptable. The south east corner of the site is within flood zone 3 which is a high risk zone. Object on the grounds that a Flood Risk Assessment has not been provided. (The applicant has subsequently submitted a Preliminary Risk Assessment to address the contamination issue and a Flood Risk Assessment the further comments of the Agency are awaited).

**Community Safety Officer:** Supports the proposal. The area has historically suffered from higher than average crime which substantial partnership work is positively addressing. Makes various comments in relation to managing crime and disorder. Including access, parking management and security, deliveries, pedestrian access and general site security. Requests CCTV coverage of the site linked to the existing Longhill/Sandgate operation.

**Cleveland Police :** The ward has higher than average rates of crime and disorder makes various recommendations in relation to boundary treatments, Landscaping, lighting, Car parking, doors and windows, service and loading areas, intruder alarms and roof areas.

## Planning Policy

7.7 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.

Com4: Defines 10 edge of town centre areas and indicates generally which range of uses are either acceptable or unacceptable within each area particularly with regard to A1, A2, A3, A4, A5, B1, B2, & B8 and D1 uses. Proposals should also accord with related shopping, main town centre uses and recreational policies contained in the plan. Any proposed uses not specified in the policy will be considered on their merits taking account of GEP1.

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 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.

GEP16: States intention to acquire by compulsory purchase untidy sites in order to achieve the proper planning of an area.

GEP17: States that subject to finance the Council will pursue the reclamation and re-use of derelict and disused land, including the area of the former anhydrite mine. Landscaping and tree planting will be included in schemes and account taken of open space and recreational uses and also of the nature conservation value of sites.

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.

GEP7: States that particularly high standards of design, landscaping and woodland planting to improve the visual environment will be required in respect of developments along this major corridor.

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.

GN4: States that the Borough Council will undertake strategic landscaping schemes

and woodland planting along this corridor.

HE10: States that the siting, design and materials of new developments in the vicinity of listed buildings should take account of the building and its setting. New development which adversely affects a listed building and its setting will not be approved.

HE3: States the need for high quality design and materials to be used in developments which would affect the setting of conservation areas and the need to preserve or enhance important views into and out of these areas.

PU1: Requires that development proposals be designed to ensure that there is no additional flood risk. Sustainable drainage is encouraged.

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.

Tra16: The Council will encourage a level of parking with all new developments that supports sustainable transport choices. Parking provision should not exceed the maximum for developments set out in Supplementary Note 2. Travel plans will be needed for major developments.

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.

Tra5: States that provision will be made for a comprehensive network of cycle routes and that new housing and industrial development and highway and traffic management schemes should take account of the need to provide links to the network.

Tra6: States that developments attracting large numbers of visitors or employees should provide on site, secure and convenient cycle parking provision.

Tra7: States that improvements will continue to be made to the pedestrian environment in the central area and improved links provided between the primary shopping area and other parts of the town centre. Pedestrian links will also be provided within and between the Marina, Seaton Carew and the Headland, including a proposed new pedestrian bridge at Victoria Harbour.

WL8: States that the Borough Council will seek to minimise or avoid any significant adverse impact of a development on the nature conservation interest of a site through the use of planning conditions or obligations where appropriate.

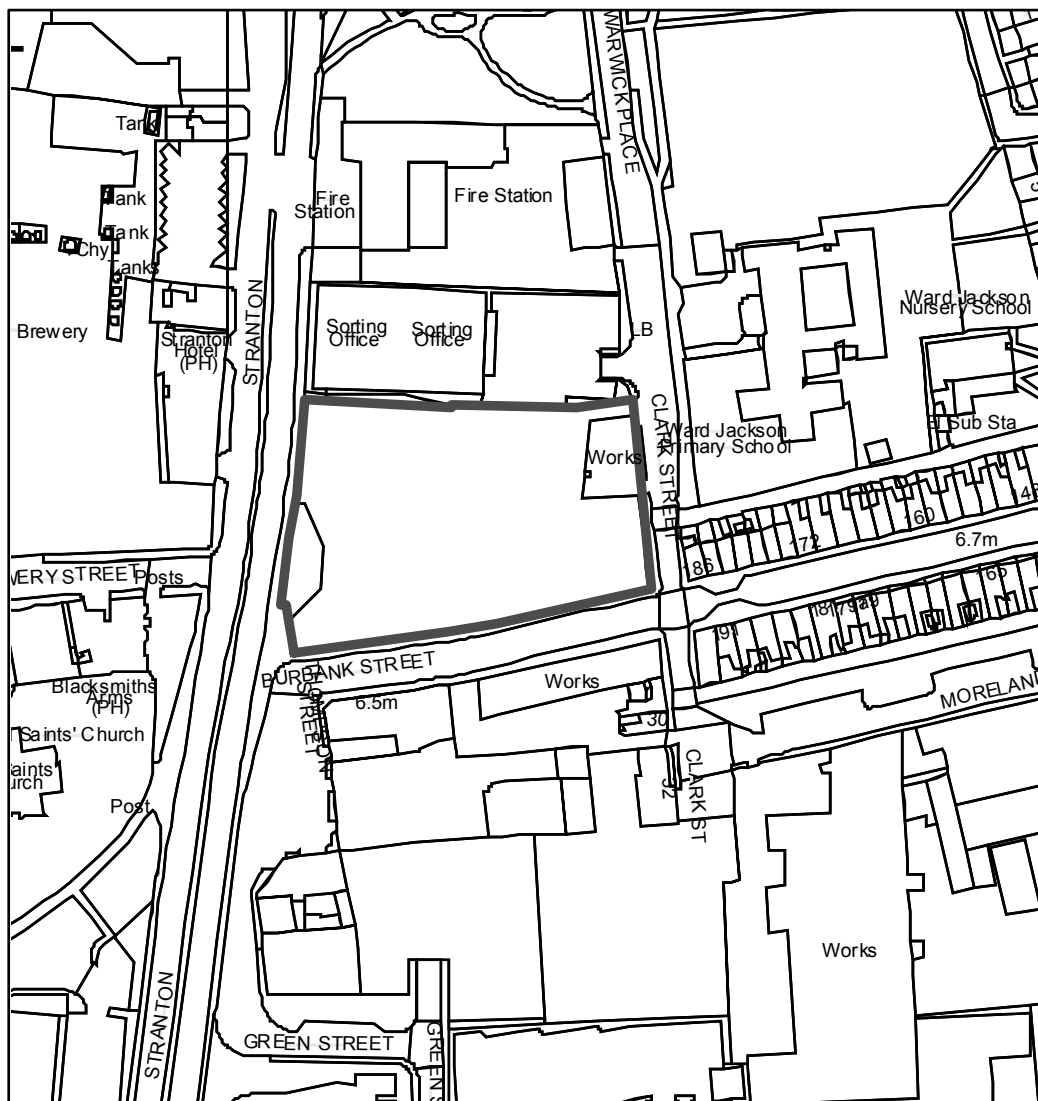
## **Planning Considerations**

7.8 The main planning considerations are considered to be policy, design/impact on the street scene/Conservation Area, regeneration, impact on the amenity of neighbours, crime & disorder, contamination and flooding.

7.9 Discussions are continuing a number of detailed issues particular those related to the regeneration benefits of the development and opening hours. Comments are awaited from the Environment Agency on key issues of contamination and flooding and are anticipated shortly.

**Recommendation** – Update to follow

## Pinero Grove



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<b>HARTLEPOOL</b>  <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>12/03/2009</b>
	SCALE <b>1:1000</b>	
<b>Department of Regeneration and Planning</b> Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2008/0703</b>	REV

**No:** 8  
**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

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## Background

8.1 This application was considered at the February meeting when it was deferred as matters were outstanding.

## The Application and Site

8.2 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 of floorspace. 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 western 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.

8.3 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.

8.4 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. In particular to extend the permitted floor space allowed within planning approval H/2005/5921 by a further 4,537 square meters to 11,017 square metres (restricted by condition 4). 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 (Condition 5 - H/2005/5921) and the range of goods that can be sold (Condition 4- EZ2/3/OUT/519/85, Condition 2 H/FUL/0619/91, Condition 6-H/2005/5921) on the site. 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). A proposal seeking flexibility to allow three of the units to be

occupied by Class A3 (Restaurant & Café) operators has subsequently been withdrawn.

8.5 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. The additional floorspace will be provided in ten new units. Unit 6 will link Poundstretcher to the adjacent vacant unit which will be subdivided into three units. Five units 11 to 16 will be provided in the south east corner of the estate effectively closing this corner. Units 11,12,13 will also accommodate 4,415 sq m of the proposed additional floorspace in a mezzanine floor. 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. 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.

8.6 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.

8.7 The applicant states that the retail park is no longer fit for purpose and attributes this 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.

8.8 The applicant's 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 and contribute to employment opportunities and social regeneration.

### **Relevant Planning History**

8.9 The planning history of the site is complex.

8.10 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 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 7<sup>th</sup> 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 ).

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

8.12 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 14<sup>th</sup> September 1993 to allow for this. Unit 2 is now occupied by Aldi .

8.13 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).

8.14 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).

8.15 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 agreement was completed due it is understood to the complexity and multitude of owners and tenants of the retail park (H/VAR/0118/96).

8.16 In 2001 permission was granted to vary the principal 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 1<sup>st</sup> February 2008. This unit is now occupied by Pound Stretcher.

8.17 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 retail 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.

8.18 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 28<sup>th</sup> June 2007.

8.19 In 2007/2008 the applicant applied for certificates of lawfulness to establish that the lawful use of units 1 and 4 were they to be subdivided in accordance with permission (H/FUL/0101/04) would be for any purpose within Class A1 shops (H/2007/0765 & H/2008/0162). 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

### **Recent Legal Advice**

8.20 In considering the application legal advice has been sought on two matters.

i) The scope of the application:

Questions had been raised by our own retail consultant and a retail consultant representing a third party as to the appropriateness of the application. In essence the concern was that the changes proposed, (increased floor space, extending the range of goods to be sold and removing the restriction on the minimum size of unit) were so significant that a new planning application should be submitted rather than an application under section 73 to vary existing conditions. The legal advice received is that the application to vary the conditions is appropriate.

ii) The position of the legal agreements.

Questions had been raised as to whether the most recent legal agreement dated 28<sup>th</sup> June 2007, completed in relation to planning permission H/2005/5921 which contains no restrictions on the range of goods sold, superseded the principal legal agreement dated 10<sup>th</sup> April 1986, completed in connection with the original outline planning permission for the site (EZ2/3/OUT/519/85) which does restrict the range of goods which can be sold on the site. The legal advice supports the view that the most recent legal agreement supersedes the principal legal agreement.

### **Summary of Planning History**

8.21 In light of the most recent legal advice in summary the use of the existing and approved units on the site is restricted by planning conditions only.

8.22 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 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

8.23 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 consultants representing the owner of Anchor Retail Park. A letter of objection was also received from PD Ports. The writers raise the following issues.

- i) Format of application is inappropriate.
- ii) 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 foods and goods, that should be sold in the town centre.
- iii) The retail statement is deficient and does not satisfactorily demonstrate that the application accords with retail planning policy.
- iv) PD Ports has land currently available at Victoria harbour including 17,094 sq m of retailing. These sites provide sequentially preferable sites to the application site and a better and more sustainable location through the provision of critical mass to support an improved retail offer. They will also act as a catalyst for wider regeneration opportunities which would enable closer links to the town centre and existing Marina development. It is felt that if this permission is approved this would create a competing out of town retail locality which would undermine developer confidence in Victoria Harbour. This would prejudice wider regeneration proposals and have an adverse impact on retailing in the town centre and Marina. National Planning Guidance should be considered. Whilst current economic conditions are having an impact on the retail market in general, should there be a requirement for additional critical mass within the retail offer at Hartlepool it is felt that this would best be accommodated at Victoria Harbour.

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## Consultations

8.24 The following consultation responses 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 persons 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** - The planning application raises a number of strategic issues that will need to be taken into account by the Borough Council during its consideration of the proposals. Overall the development of an expanded out-of-centre retail park with currently poor public transport connections does not conform with broad national and regional guidance and policy. It is important therefore that the necessary conditions are imposed to ensure that the retail development is consistent with current policy in the Hartlepool Local Plan. In such circumstance, then there would be no strategic concerns with this application, subject to meeting the tests in national guidance PPS 6.

I note that the Borough Council is currently seeking legal advice on the scope of the planning application. The accompanying Retail Impact Assessment does not fully address the quantitative and qualitative need for such types of retailing as required by PPS6 and may therefore underestimate the adverse impact on any existing centre as a result of the proposed development. The Retail Impact Assessment also does not fully address the sequential site tests in PPS6 for such types of retailing. The Borough Council needs to consider the importance of a substantial extension of out of centre retail development to the future vitality and viability of the town centre and should consider the form of retail development that it requires. The Borough Council should recognise that it may be necessary to re-examine non-car travel mode assumptions on accessibility. The site is located within Flood Zone 1 and there are no concerns about the projected low level of future background traffic growth on the existing road network.

In view of these comments, I do not however propose to report this application to the Planning & Economic Strategy Board of Tees Valley Unlimited.

**Environment Agency** – No objections recommended condition relating to disposal of surface water.

**Engineering Consultancy** - No objections.

**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. Recommended 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 .

**Community Safety Officer** – Any comment will depend on whether retail floorspace is to extended/format of building altered/extended etc. Details of proposed variation of goods to be sold to identify potential security implications. Any notification to change trading hours would be appreciated. What are existing, if any security arrangements and car parking provision/monitoring.

**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** – 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.

**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

**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

8.25 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 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**

8.26 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 Issues.

8.27 The response of the applicant's to this Council's Retail Consultant's comments have been received and considered by the Council's Retail Consultant. Her response has only recently been received and needs to be considered.

**RECOMMENDATION** – Update report to follow.

**THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY**

<h1>HARTLEPOOL</h1> <h2>BOROUGH COUNCIL</h2>	DRAWN <b>GS</b>	DATE <b>6/1/09</b>
	SCALE <b>1:3,000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2008/0495</b>	REV



**No:** 5  
**Number:** H/2008/0625  
**Applicant:** Mr . HALL VISCOUNT CLOSE TS24 0UN  
**Agent:** Anglian Home Improvements Conservatories Division PO  
Box 65 NORWICH NE6 6EJ  
**Date valid:** 17/10/2008  
**Development:** Erection of a rear conservatory  
**Location:** 25 VISCOUNT CLOSE HARTLEPOOL HARTLEPOOL

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### **Update**

5.1 Since the original report was prepared the applicant's agent has submitted comments from the company's installation department. The comments are in response to queries made with regard to the construction methods of the conservatory by the Local Planning Authorities Engineering Consultancy Section. The Engineers are now considering the submitted information and will hopefully be able to comment before the meeting.

**RECOMMENDATION** – To be tabled at the meeting.

**No:** 7  
**Number:** H/2008/0703  
**Applicant:** Aldi Stores  
**Agent:** Turley Associates Ms Lydia Sadler 33 Park Lane Leeds LS1 2PY  
**Date valid:** 07/01/2009  
**Development:** Erection of food store with associated access, car parking and landscaping  
**Location:** LAND WEST OF CLARK STREET AND NORTH OF BURBANK STREET HARTLEPOOL

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## PLANNING CONSIDERATIONS

7.1 The main planning consideration are considered to be policy, design/impact on the street scene/Conservation Area, regeneration, impact on the amenity of neighbours, crime & disorder, contamination and flooding.

### POLICY

7.2 The site is identified in the Hartlepool Local Plan as an edge of town centre area (East of Stranton site) where A1 retail development will not be allowed unless it demonstrably serves the local area. Retail development is also required to comply with Policies Com 8 and Com 9.

7.3 The site is edge of centre and is not located within an existing centre. In accordance with the above policies and national guidance provided within Planning Policy Statement 6: Planning for Town Centres the applicant is required therefore to establish that there is a need for the development, the scale is acceptable, that there is no sequentially preferable site available, that the development will not have an unacceptable impact on the vitality and viability of the town centre and nearby local centres and the site is accessible.

7.4 In support of the application the applicant has provide a planning and retail statement. This concludes that the development would involve the relocation of an existing Aldi store at Tees Bay to a sequentially preferable edge of town centre site, that there are no sequentially preferable sites available, it will meet a local need, the scale is appropriate, it will not impact on the vitality and viability of the local centres or the town centre, it will not prejudice the redevelopment of sites within the town centre and that the site is accessible.

7.5 In considering the applicant's supporting statement there are concerns that a robust case in retail terms has not been sufficiently demonstrated particularly in terms of need, the sequential test and impact on existing centres. The applicant's case relies heavily on the fact that the existing slightly smaller Aldi store at Tees Bay will close and move to the new site within the same catchment area. The applicant has an outstanding 13 year lease on their existing store at Tees Bay and proposes to

prevent its future occupancy for that period by a convenience (food) goods retailer. However, this would be a temporary restriction and the vacant store will no doubt in any case be filled by another retailer, perhaps selling comparison goods. Thus there will be a net increase in retail provision within the catchment which the applicant does not appear to have accounted for. It is also considered that the case put forward by the applicant in relation to a quantitative need is weak and the applicant's assessment of sequential preferable sites is incomplete as it did not include an assessment of available sites within the Primary Shopping Area including the Park Road site within the Middleton Grange Shopping Centre.

7.6 In terms of national and local plan retail policies therefore, strictly speaking, the proposal is difficult to justify. However the site has been vacant for many years and apart from the recent retail applications no firm developer interest has been shown in its commercial/industrial development. The site is clearly in need of regeneration and is prominently located on the main approaches to the town. It is also the case that there is a long term aspiration and a perceived “qualitative” need amongst the local population in the Burbank area for additional retail provision within the area. These issues have also been brought forward by the applicant and warrant further consideration. It is considered however that if these factors are to be weighed against the shortcomings of the retail argument then a strong case must be demonstrated in terms of local need and regeneration opportunities.

7.7 In terms of the “local need” there has been a long standing aspiration for local shopping provision in Burbank, this became apparent in 2004 when the consultation to develop the first Neighbourhood Action Plan (NAP) for Burbank commenced. Recent consultation has provided further evidence of the desire to have improved access to retail facilities. When local people were asked what would need improving to enhance their quality of life, 13% said shops and supermarkets, in Burbank, in comparison to only 4% Borough wide (Ipsos MORI, 2008). In the Neighbourhood Action Plan (NAP) Update which was prepared in 2007, residents identified that one of their priority concerns was the “lack of local retail units, particularly for healthy food”, prompting action to look at possibilities around increasing the number of local retail units. A concluding recommendation from a recent survey undertaken by local residents, in the Burbank community, highlights the wish to build a small parade of shops to provide staple needs (MORRISH Report, 2008).

7.8 Although the neighbourhood is situated in close proximity to the Town Centre and Tesco, located on Burn Road, the community feels cut off and isolated due to the surrounding major roads and nearby industrial areas, this is a particular problem for the elderly and those with mobility issues. It should be noted that 21.3% of the population in Burbank is over retirement age (JSU, 2007) with 63% of households in the Burbank area without a car, compared to 39% Borough wide (Census, 2001). In addition 7.8% of Burbank residents are unemployed compared to 4.4% Borough wide. The worklessness rate in the area is 43% compared to 33% Borough wide and 41% of the Burbank population are receiving income benefits compared to 23% Borough wide (JSU, 2006). These statistics are all indicative of low income households and these factors age, income and mobility can be a barrier to accessing amenities and services outside of the immediate area. In respect to a local need there is clearly a prima facie case in favour of the development.

7.9 In terms of regeneration benefits the site is prominent, unsightly and lies on a main approach into the town opposite a Conservation Area and Listed Building. It is considered that the development would have significant benefits for the community and assist in the physical, social and economic regeneration of the area. This argument has been enhanced by the applicant's agreement to contribute £25,000 towards the provision of a CCTV camera to extend the Sandhill Longhill CCTV Scheme (see below). Further, following negotiations the applicant has proposed wall and railing details to Stockton Road, Burbank and Clarke Streets. It is considered that this will provide a strong consistent boundary treatment which would have a significantly more positive impact on the street scene.

#### DESIGN/IMPACT ON THE STREET SCENE/CONSERVATION AREA

7.10 The site is prominently located on a main approach into the town opposite a Conservation Area and Listed Buildings. It is currently somewhat overgrown and contributes little to the visual amenity of the area. The proposed supermarket building itself is of a modern design with materials typical of a modern supermarket. It is located adjacent to the modern Royal Mail building which is of a similar scale. The building has been sited to the western side of the site, the elevation here is glazed and the main entrance is located in this area to create interest, activity and a presence on the main approach road into Hartlepool. In terms of the other elevations inevitably, given the functional requirements of a building of this nature these are plainer however they are set well back from the public roads, Burbank Street and Clark Street within the landscaped and enclosed car park. It is considered that the design of the supermarket building itself is acceptable in this location. It and the proposed boundary treatments will have an acceptable and positive impact on the visual amenity of the area.

#### HIGHWAYS

7.11 The site will accommodate 80 car parking spaces and have access off the A689 with an egress and access off Clark Street. The applicant is also proposing to provide a dropped kerb crossing point across the A689 at a location where informal crossing has occurred for many years.

7.12 Traffic & Transportation have considered the proposals and confirmed that subject to suitable conditions the proposals are acceptable. (The parking layout has been slightly amended to accommodate a 6m clearance for one of the disabled parking bays which was requested). These conditions would include a traffic regulation order restricting parking, improvements to the bus stops and pavements, a condition restricting vehicular access to the A689 and the provision of the crossing point on the A689.

7.13 An objection has been received from the Head Teacher of Ward Jackson Primary School. The Head Teacher supports the building of the store and recognises the benefits for the community and the regeneration of the area. However she is concerned at the already high levels of traffic congestion on Clark Street and that the development will add to this and create additional dangers for children and visitors to the school. A particular concern is the location of the access on Clark Street close to the school access and the increased traffic movements

associated with heavy goods vehicles and customers. The Head Teacher has asked therefore that the main access/egress to the store be located on the A689 with a possible heavy goods vehicle access/egress onto Burbank Street with these vehicles using a route via Burbank Street/Thompson Street/Green Street only.

7.14 The concerns raised have been passed to the applicant and the Traffic & Transportation Section. It is understood that both parties have also met with the Head Teacher to discuss her concerns.

7.15 The applicant has confirmed that the store is served by only one delivery a day and that this can be arranged so that it does not conflict with the main school opening and closing times (08:50 & 15:10). The applicant has also indicated that parents dropping off children may be able to use the store's car park. Opening times would be 08:00 to 20:00 however in light of the concerns raised by the school following discussions the applicant has agreed to open later in the morning at 09:00 on school days and an appropriate condition is proposed. This should effectively limit any impact arising on pupils arriving, at what, combined with the movement associated with the Royal Mail operation, is one of the busiest times of the day.

7.16 Traffic & Transportation have considered the concerns of the school. They have advised that if the opening time of the store is after 9.00am, any increase in traffic will occur when children are already in school and that the Traffic Regulation Orders proposed will reduce the amount of car parking. Similarly deliveries can be arranged to occur outside the main school opening and closing times. They point out that there are already vehicular accesses onto Clark Street, do not consider the objection to the access could be sustained and conclude that with the controls proposed the development is acceptable in highway terms. In relation to the suggestion that the main egress from the site should be onto the A689 unfortunately this would be contrary to policy TRA 15 which restricts the provision of new accesses onto major roads. The A689 at this location is at saturation point and any increased traffic directly accessing from the site would exacerbate the problem and have highway safety implications.

7.17 It is unfortunate that given the limitations of the site an agreement, acceptable to all, cannot be reached in relation to the issues raised by the school. However, it is considered with the measures/conditions proposed the proposal as submitted is acceptable in highway terms.

#### IMPACT ON THE AMENITY OF NEIGHBOURS

7.18 The proposed development is located between commercial developments and the building itself is set to the western end of the site well away from any neighbouring residential properties. The closest residential properties are at the end of Burbank Street and are gable ended onto the site. The applicant has indicated that the store would be open to 08:00 to 20:00 (09:00 to 20:00 on school days) which are not considered to be antisocial hours. The Head Of Public Protection has advised he would have no objections subject to a condition requiring delivery lorries to turn left onto Clark Street to avoid them passing close by the residential neighbours. In terms of the impact on the amenity of neighbours the proposal is considered acceptable.

## CRIME & DISORDER

7.19 The site is within an area with higher than average crime. The Community Safety Officer and Cleveland Police have made various recommendations and the applicant has responded positively to most of these requirements which can be covered by an appropriate condition. The applicant has also agreed to provide a contribution of £25,000 to the provision of a CCTV camera. This would extend the existing Sandhill Longhill CCTV Scheme into the area. The contribution would be secured by a legal agreement. A separate planning application would be required for this with the application and provision coordinated by Hartlepool Borough Council. It is understood that this would be located close to the junction of Thompson Street/Burbank Street and would have significant benefits for the security of the site and the wider area. In terms of crime and disorder the proposal is considered acceptable.

## CONTAMINATION

7.20 The site consists of previous developed land and is also located in a sensitive environmental setting as it lies on the Magnesium Limestone Aquifer. The risk of contamination needs to be taken into account. Hartlepool Borough Councils Engineering Consultancy have requested that an appropriate condition to identify and remediate contamination be included should the application be approved. The Environment Agency however have objected as they consider a preliminary risk assessment so that any risks can be understood and accounted for should be provide at this time. The applicant has subsequently provided this information and the response of the Agency is awaited, it is hoped that this will satisfy their concerns, members will be updated at the meeting.

## FLOODING

7.21 The south east corner of the site is within flood zone 3 which is a high risk zone in flooding terms. The Environment Agency has objected on the grounds that a Flood Risk Assessment has not been provided. The applicant has subsequently submitted a Flood Risk Assessment. This concludes that most of the site and the proposed building will be outside the flood risk zone and that with appropriate mitigation measures the development will not be at significant risk of flooding and will not adversely affect flood risk in the catchment. The further comments of the Environment Agency are awaited it is hoped that the Flood Risk Assessment will address their concerns.

**RECOMMENDATION** – Approve subject to the completion of a legal agreement securing developer contributions of £25,000 towards the provision of a CCTV camera, the receipt of satisfactory comments from the Environment Agency on the issues of flooding and contamination and the following conditions and any further conditions arising from the outstanding consultation.

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 approved shall be carried out in accordance with the plans and details submitted on 5<sup>th</sup> December 2008 as amended in respect to the site layout by the drawing AL(0)10 PL1A received at the Local Planning Authority by email on 12<sup>th</sup> March 2009 (except boundary treatments), in respect to external finishes by the drawing AL(2)261K received at the Local Planning Authority by email on 12<sup>th</sup> March 2009 and in relation to boundary treatments by the drawing AL(98)001A received at the Local Planning Authority by email on 19<sup>th</sup> March 2009, unless otherwise agreed in writing by the Local Planning Authority  
For the avoidance of doubt.
3. The foodstore shall not be open to the public outside the following times, 09:00 to 20:00 on school days and, 08:00 to 20:00 on non school days.  
In the interest of highway safety and amenity.
4. Notwithstanding any details submitted or shown on approved plans 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.
5. Unless otherwise agreed in writing with the Local Planning Authority the boundary enclosures shall be in accordance with the details shown on drawing number AL(98)001A received at the Local Planning Authority on 19<sup>th</sup> March 2009. The approved enclosures shall be provided prior to the store being brought into use.  
In the interests of visual amenity.
6. Unless otherwise agreed in writing by the Local Planning Authority no service vehicle deliveries to, or collections from, the foodstore shall take place between the hours of 0830 and 09:00 and 15:00 to 15:30 on any school day. All service vehicles delivering to/collecting from the site shall turn left onto Clark Street when leaving the site and notices advising this shall be displayed on the site at all times in accordance with details to be first agreed in writing by the Local Planning Authority.  
In order to ensure that deliveries/collections avoid peak periods of activity at the School, in the interest of highway safety.
7. No development shall take place until the following matters have been addressed and agreed in writing by the Local Planning Authority:- 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, - archaeological 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 Local Plan (2006)].

8. Notwithstanding the details submitted a detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.  
In the interests of visual amenity.
9. 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.
10. Prior to the commencement of the development hereby approved a scheme of security measures 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 crime prevention and security.
11. Unless otherwise agreed in writing with the Local Planning Authority no development approved by this permission shall be commenced until a scheme for the disposal of surface water has been submitted to and approved by the Local Planning Authority. The development shall thereafter take place in accordance with the approved details.  
To ensure that the discharge of surface water from the site does not increase the risk of flooding from the sewers in accordance with PPS25 "Development and Flood Risk" and complies with the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2000.
12. Notwithstanding the details submitted unless otherwise agreed in writing by the Local Planning Authority before the foodstore development is commenced details of the proposed surfacing of the car parking and manoeuvring areas and bicycle parking provision shall be submitted to and approved in writing by the

Local Planning Authority. The approved car and bicycle parking scheme shall be provided in accordance with the approved details prior to the food store being brought into use. Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.  
In the interests of highway safety.

13. Unless otherwise agreed in writing with the Local Planning Authority prior to the foodstore being brought into use the kerb of the bus stop on Burbank Street shall be raised in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.  
In order to encourage the use of alternative travel modes to the motor car and in the interests of highway safety.
14. No direct vehicular access from the site onto the A689 shall take place at any time and notices advising this shall be displayed on the site at all times in accordance with details to be first agreed in writing by the Local Planning Authority.  
In the interests of highway safety.
15. Notwithstanding the details submitted unless otherwise agreed in writing with the Local Planning Authority prior to the foodstore being brought into use a pedestrian crossing point over the A689, including fencing, shall be provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.  
In order to encourage the use of alternative travel modes to the motor car in the interests of highway safety and the character and appearance of the Conservation Area.
16. Unless otherwise agreed in writing by the Local Planning Authority the development hereby permitted shall not be brought into use until a "prohibition of waiting order" has been implemented on Clark Street and Burbank Street in accordance with details first submitted to and approved in writing by the Local Planning Authority.  
In the interests of highway safety.
17. Notwithstanding the submitted details unless otherwise agreed in writing with the Local Planning Authority prior to the foodstore being brought into use the footpaths along Burbank Street and Clark Street shall be improved in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.  
In order to encourage the use of alternative travel modes to the motor car and in the interests of highway safety.
18. Unless otherwise agreed in writing with the Local Planning Authority prior to the foodstore being brought into use the existing advertising hoardings on the western side of the site shall be removed.  
In the interests of visual amenity.

**No:** 8  
**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

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8.1 This application appears on the main agenda at Item 8.

8.2 The recommendation was left open as retail advice was under consideration.  
The retail issues relating to the development are still under consideration and officers  
are not in a position to make a recommendation.

**Recommendation** Members note the current position.

**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. An investigation has commenced following neighbour concerns regarding an untidy rear garden in Stanmore Grove.
2. A neighbour complaint regarding a car repair business operating from a residential property in Redstart Close.
3. A neighbour complaint regarding a boundary/ownership issue relating to a planning consent in Ridlington Way.
4. An investigation has commenced following resident concerns about a car body repair business operating from a residential garage in Meadowgate Drive.
5. An investigation has commenced following concerns about a former accommodation module being used for residential purposes in Graythorp.
6. Officer monitoring recorded the display of a temporary hoarding now expired on a retail outlet in Jesmond Road.
7. A neighbour complaint regarding erection of a side boundary fence in Seaton Lane.
8. An investigation has commenced following concerns regarding the finished colour applied to the facade of a converted building in York Road.
9. A neighbour complaint regarding the erection of a wooden structure in the rear garden of a residential property in Lawson Road.
10. A neighbour complaint regarding the clearance of trees and outbuildings in the rear garden of a residential property in Birchill Gardens.

11. A neighbour complaint regarding the installation of a satellite dish to a residential property in Cliff Terrace. The property is protected by an Article 4 Direction and lies in the Headland Conservation Area.
12. An investigation has commenced following concerns about the erection of a front boundary wall in Owton Manor Lane.
13. An investigation has commenced following concerns about untidy industrial land in Mainsforth Terrace.
14. A neighbour complaint regarding the operation of a dog grooming business in Greenfinch Road.
15. An investigation has commenced following a Councillor concerns regarding the parking of a caravan outside a residential property in Formby Close.
16. A neighbour complaint regarding the clearance of trees and outbuildings in the rear garden of a residential property in Seaton Lane.
17. An investigation has commenced following a Councillor concerns regarding the display of a sign without advertisement consent on the side wall of a property in The Front, Seaton Carew.
18. A neighbour complaint regarding the erection of outbuildings in the rear garden of a residential property in Valley Close.

## **2. RECOMMENDATION**

- 2.1 Members note this report.

**Report of:** Assistant Director (Planning & Economic Development)

**Subject:** APPEAL BY MR M FLETCHER, 38/40  
EGERTON ROAD, HARTLEPOOL, TS26 OBW  
APP/HO724/A/08/2081827

---

**1. PURPOSE OF REPORT**

1.1 To advise Members of a planning appeal decision.

**2. THE APPEAL**

2.1 A planning appeal had been lodged against the refusal of the Local Planning Authority to allow the erection of a dormer bungalow with attached garage.

2.2 The appeal was decided by a hearing and dismissed by the Planning Inspectorate. A copy of the decision is set out below.

**3. RECOMMENDATION**

3.1 That Members note the decision.



## Appeal Decision

Hearing held on 3 February 2009  
Site visit made on 3 February 2009

**by Malcolm Rivett BA (Hons) MSc 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](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**18 February 2009**

### Appeal Ref: APP/H0724/A/08/2081827

#### Glendower, Rear 38/40 Egerton Road, Hartlepool, TS26 0BW

- 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 Fletcher against the decision of Hartlepool Borough Council.
- The application Ref H/2008/0309, dated 16 May 2008, was refused by notice dated 14 July 2008.
- The development proposed is dormer bungalow with attached garage.

#### Application for costs

1. At the Hearing an application for costs was made by Mr M Fletcher against Hartlepool Borough Council. This application is the subject of a separate Decision.

#### Decision

2. I dismiss the appeal.

#### Main issues

3. The main issues of the appeal are the effect of the proposal on:
  - vehicular and pedestrian safety; and
  - the living conditions of the occupants of 38 and 40 Egerton Road, and of the proposed dwelling itself, having particular regard to noise/disturbance.

#### Reasons

4. The proposed dwelling would be served by the existing access road to Glendower. The access is around 33m in length and it is common ground that it is not wide enough for two vehicles to pass each other. Neither party have provided details of the number of vehicle trips the proposal would be likely to generate or, also taking account of the vehicles travelling to/from Glendower, of the probability of "opposing" vehicles meeting on the access road. However, bearing in mind the sizes of Glendower and the proposed dwelling and therefore the volume of traffic likely to be generated, I consider that vehicle "conflicts" in the access road would be likely to occur only occasionally. Moreover, it seems probable to me that in such circumstances it is as likely as not that the vehicle leaving the site would reverse, giving priority to the vehicle entering the access road from Egerton Road.
5. I accept that very occasionally it would be likely to be necessary for a vehicle entering the site to have to reverse along the access back on to Egerton Road.

Whilst the driver's visibility would be restricted at the junction with Egerton Road, drivers and pedestrians on this road would have a relatively good view of the emerging vehicle. Given this, the likely speed of the reversing vehicle and the infrequency of such an occurrence, I consider that, even at peak times, the proposal would be unlikely to result in any significant harm to vehicular or pedestrian safety. I have also borne in mind that there are a number of nearby properties on Egerton Road from which I envisage vehicles reverse on to the road on a daily basis. In accordance with policy GEP1 of the adopted *Hartlepool Local Plan* I have taken account of the proposal's effect on highway safety and conclude that it is unlikely that material harm would be caused.

6. Although not referred to in the Council's decision notice I have been provided with a copy of Supplementary Note 1 of the Local Plan. This states that private accesses to dwellings should be a minimum of 4.1m wide and no longer than 25m in length. Whilst in conflict with this guidance, I consider that this does not justify refusal of permission for the proposal given that I have found that no significant harm to highway safety would be likely to be caused. I have also given some weight to the appellant's comment that, in view of the width of many modern cars, an access of 4.1m width would, in reality, be likely to operate as a single track road.
7. Whilst I consider that the potential for vehicle "conflicts" would be minimal it is nevertheless likely that the proposal would result in a significant increase in vehicle movements into and out of the site. Given the distance of the habitable room windows of nos 38 and 40 from the access road and the presence of the close boarded fence (and having heard a vehicle pass along the access road from within no 38) I consider that the noise of additional traffic would be unlikely to cause unacceptable disturbance to the residents of these properties when in their homes. The Council also raises concern about disturbance caused to the residents of the proposed dwelling by vehicles passing to/from Glendower although I note that the passing vehicles would be no closer to the front of the new dwelling than is the case with many houses fronting residential roads.
8. Nevertheless, the shared access road and the reversing area for the proposed dwelling would either directly abut or be in close proximity to the rear garden of no 40, and in particular its patio area in the corner of the garden most likely to benefit from afternoon and evening sun. Moreover, the proposal would reroute the existing driveway to Glendower significantly closer to, and along the full length of the rear boundary of, no 40's garden. It is argued that such a rerouting could take place without the need for planning permission although it seems to me unlikely that this would happen in the absence of permission being granted for the appeal proposal.
9. I note that the Council's Head of Public Protection has no objection to the scheme. Nonetheless, I consider that the noise of the additional vehicular movements likely to be generated by the proposal, including cars manoeuvring into/out of its garage, within a few metres of no 40's main sitting out area, together with the closer proximity of vehicles travelling to/from Glendower, would be likely to cause an unacceptable level of disturbance to, and therefore harm to the living conditions of, no 40's occupants in using their rear garden. Bearing in mind that the access is adjacent to only one side of no 38's garden more limited disturbance would be likely to be caused to the residents of this



Appeal Decision APP/H0724/A/08/2081827

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dwelling in using their garden. Although the harm to no 38's occupants would not be sufficient to, alone, justify refusal of permission for the proposal, it has added some weight to my decision on this issue. In accordance with Local Plan policy GEP1 I have taken account of the effect of the proposal on general disturbance likely to be caused to occupiers of nearby properties and I conclude that significant harm would be caused. The proposal also conflicts with the requirement of Local Plan policy Hsg9 which indicates that the location of new residential development should be such that there is no significant detrimental effect on the occupiers of existing development.

10. The appellant refers to the views of acousticians that they would be unable to calculate a material difference in ambient noise levels as a result of the proposal. I accept that average noise levels in the vicinity would be effectively unaltered by the scheme. However, this does not mean that individual vehicle movements cannot be heard from within the gardens of nos 38 and 40 and I have found that a significant increase in the frequency of such movements would be likely to cause unacceptable disturbance. The appellant also refers to a number of Council and appeal decisions concerning schemes which he argues are similar to the proposal before me. The limited details provided about these schemes primarily refer to the relationship of the access road to the side elevations of the adjacent dwellings, which I have found to be acceptable in this instance. It is not clear to me that any of these schemes are comparable with this proposal in terms of its effect on the main sitting out area of a neighbouring garden. Reference is made to the scheme at 14 Owton Manor Lane with which I am familiar having determined that appeal. However, I am satisfied that that development, resulting in only one dwelling to the rear of the existing properties, is not comparable with the proposal now before me.
11. Whilst I have found the proposal to be acceptable in terms of vehicular and pedestrian safety it would cause significant harm to the living conditions of the occupants of 40 Egerton Road (and to a lesser extent those of no 38), which I consider justifies refusal of permission for the scheme. I recognise that, in accordance with national policy, the proposal would make efficient use of previously developed land and would enable the appellant to "downsize" whilst continuing to live in the area. However, I consider that this does not outweigh the harm the scheme would cause.
12. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR

**Report of:** Assistant Director (Planning and Regeneration)

**Subject:** APPEAL BY MR ADEL ATFI, SITE AT 132  
OXFORD ROAD, HARTLEPOOL, TS25 5RH  
APP/H0724/A/09/2099083

---

**1. PURPOSE OF REPORT**

- 1.1 To advise members of a notification of a planning appeal.

**2. THE APPEAL**

- 2.1 A planning appeal had been lodged against the refusal of the Committee to allow the variation of condition 2 of planning permission H/2006/0839 to allow opening on a Sunday between the hours of 10am and 11pm.

- 2.2 The application was refused for the following reason:-

*'It is considered that Sunday opening would be detrimental to the amenities of the occupiers of nearby flats and houses in terms of noise and disturbance particularly at times when residents of those properties could reasonably expect the peaceful enjoyment of their homes contrary to policies GEP1 and Com12 of the adopted Hartlepool Local Plan 2006.'*

- 2.3 The appeal is to be decided by written representations.

**3. RECOMMENDATION**

- 3.1 That authority is given to officers to contest the appeal.

**Report of:** Assistant Director (Planning & Economic Development)

**Subject:** APPEAL REF: APP/H0724/A/09/2097541/WF  
H/2008/0692 RETENTION OF RAILINGS TO  
GARAGE ROOF (RETROSPECTIVE) 90 HART  
LANE, HARTLEPOOL, TS26 0JN

---

**1. PURPOSE OF THE REPORT**

1.1 To notify members of a notification of a planning appeal.

**2. APPEAL**

2.1 To inform Members that a planning appeal has been lodged against the refusal of the Local Planning Authority to allow the retention of railings to a garage roof forming a patio area at 90 Hart Lane, Hartlepool, TS26 0JN.

2.2 The application was refused for the following reason:

*“Given the relationship of the proposal with the neighbouring properties, it is considered that the retention of the enclosed patio area, by virtue of its siting and scale would lead to significant overlooking issues to the detriment of the amenity of the neighbouring occupants, and by virtue of its elevated position would have a detrimental impact on the character of the street scene, contrary to policies GEP1 and HSG10 of the adopted Hartlepool Local Plan (2006).”*

2.3 The appeal is to be decided by written representations.

**3. RECOMMENDATION**

3.1 That authority be given to officers to contest the appeal.

## PLANNING COMMITTEE

25<sup>th</sup> March, 2009



**Report of:** Chief Solicitor

**Subject:** PLANNING CODE OF PRACTICE

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### 1. PURPOSE OF REPORT

The purpose of this report is to seek the views of the Committee to the adoption by the Council of a Planning Code of Practice. A draft of such a Code, which would operate as a “local” Code, if adopted, is appended herewith (**Appendix 1**) for information purposes. Earlier reports, circa 2005/6 were distributed to both the Standards Committee and the Planning Committee, for consideration. Owing to impending legislative changes relating to the involvement of Members with declarable interests, in relation to the discussion (as opposed to the actual decision making process) of regulatory business of the authority, progress upon the adoption of such a Code has been limited. It is therefore prudent for the Committee to consider the attached revised Code. Ultimately Council will need to consider formal adoption of this document. It should be noted that draft versions of the attached Code has been used for the purposes of on – going Member training in planning.

### 2. BACKGROUND

- 2.1 Following the recommendations of the Nolan Committee on Standards in Public Life, the Local Government Act 2000 established an ethical framework for local government in which each authority's Standards Committee has a pivotal role. Nolan recognised as a significant area of concern probity in the discharge of local authorities' planning functions and, flowing from that, an expected element of an authority's armoury against improper practice is a local Planning Code of Practice.
- 2.2 The attached draft Planning Code of Practice draws upon guidance issued by, amongst others, the Local Government Association, Royal Town Planning Institute and the Audit Commission. The draft code also builds upon the ethical framework established under the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007 and also general compliance with the provisions of the Human Rights Act 1998.

2.3 The earlier submission of the draft Code to the Standards Committee and its consideration by Planning Committee follows the ‘constitutional’ route to approval by Council, which is anticipated to follow the path set out below –

- Standards Committee
- Planning Committee
- Constitutional Working Group/Committee
- Standards Committee (to deal with any significant changes resulting from the consideration of this document by Planning/Constitutional Committee)
- Council

### **3. THE DRAFT PLANNING CODE OF PRACTICE**

3.1 The main purpose of the code, is summarised as follows:-

- Protecting the Council from criticism about the conduct of Members in the planning process.
- Providing a framework to deal with potential problems.
- Assisting in making decisions in the public interest.
- Illustrates the openness and transparency of the decision making process.
- The Planning Code of Practice seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control.

3.2 A failure to abide by the provisions contained within the Planning Code of Practice may lead to:

- The Council being at risk of proceeding on the legality or maladministration of the related decision; and
- Placing a Member(s) at risk of either being named and a report made to the Standards Committee or Full Council, or if the failure is likely to be a breach of the Code of Conduct, a complaint being made to the Standards Committee through the local assessment of complaints process.

3.3 The Government's White Paper: 'Strong and Prosperous Communities' (October 2006) indicated that changes to the Members' Code would include amending the rules on personal and prejudicial interests to remove the barriers to Councillors speaking up for their constituents or for the public bodies on which they have been appointed to serve. These changes have now been incorporated through legislative provision, in revisions to the Code of Conduct and the ethical framework operating within local government. Consequently, where members of the public can make 'representations, give evidence or answer questions' on a matter, by statutory right or otherwise, a Member who has a prejudicial interest can also attend the meeting for that purpose.

- 3.4 The draft Code incorporates these changes and up-dates the information contained within previous versions of this document. Members are therefore requested to consider the appended document and to make such recommendations for adoption by the Council as it considers appropriate.

**4. RECOMMENDATION**

- 4.1 Members are invited to consider and comment on the draft Planning Code of Practice and subject to any amendments arising from consideration by the bodies referred to in para 2.3, to commend its adoption by Council.

# **HARTLEPOOL BOROUGH COUNCIL**

## **PLANNING CODE OF PRACTICE**

**Hartlepool Borough Council  
Civic Centre  
Victoria Road  
HARTLEPOOL  
TS24 8AY**

*Draft Version – 02/09*

## CONTENTS

	PAGE
1. INTRODUCTION .....	4
2. THE NEED FOR A CODE .....	4
3. SCOPE OF THE CODE .....	4
4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS .....	5
5. WHAT PLANNING DECISIONS ARE BASED ON .....	6
6. DUTIES AND SANCTIONS .....	8
7. THE DECISION MAKING PROCESS .....	8
8. LOBBYING OF AND BY COUNCILLORS .....	9
9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS .....	11
10. REGISTRATION OF INTERESTS.....	12
11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE .....	12
12. PARISH OR TOWN COUNCIL MEMBERSHIP .....	14
13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL .....	14
14. OFFICER REPORTS TO COMMITTEE .....	14
15. COMMITTEE PROCEDURES .....	15
16. COMMITTEE SITE VISITS .....	16
17. DECISIONS DELEGATED TO OFFICERS .....	17
18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN .....	17
19. DECISIONS CONTRARY TO OFFICER ADVICE .....	17
20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED .....	18
21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS .....	18
22. THE COUNCIL'S OWN DEVELOPMENTS .....	19
23. THE MEDIA .....	19
24. RECORD KEEPING AND COMPLAINTS .....	20
25. TRAINING .....	20
26. LEARNING FROM PAST DECISIONS .....	20
27. HOSPITALITY .....	21



28. RACIST COMMENTS .....	21
APPENDICES - 1, 2, 3, 4, , .....	22/23-27 28,/29-/32

*The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.*

## 1. INTRODUCTION

**1.1** The Local Government Act 2000 introduced a new ethical framework to local government, including a Model Code of Conduct for Councillors. Previously the Nolan Committee Report on Standards in Public Life (1997) issued advice to Local Planning Authorities to frame Local Codes of Conduct or Good Practice to cover the question of Probity in Planning. ~~The Code~~ This Planning Code of Practice ("the code") complements and expands on the Model Code of conduct and is an annex to it. The Model Code is essentially concerned with the conduct of the individual councillor's duties, while the Planning Code is concerned with the integrity of the Planning System and its procedures. The Code of Practice is based on guidance from, eg The Nolan Committee, the Local Government Association, the Royal Town Planning Institute, the Standards Board for England, the Audit Commission and others. The Code sets out practices and procedures designed to avoid allegations of malpractice in the operation of the planning system. The aim is to protect the integrity of the planning system as open and fair to all parties.

**1.2** The Code will be enforced by the Council's Standards Committee. The Code will be a consideration in any investigation of maladministration by the Local Government Ombudsman. The Code refers mainly to the actions of a Planning Committee as the main decision making body, but it applies especially to other forms of decision making, eg Council where planning issues may be discussed. The Code applies to both Councillors and Officers.

**1.3** In terms of Article 6 of the Human Rights Act 1998, (right to a fair trial), the Code, together with the availability of an appeal procedure will meet the requirements of the Article. Ensuring that decisions are properly recorded and supported by adequate reasons. The fundamental basis of the Code is that the Planning System operates in the public interest and therefore decisions affecting private and public interests have to be made openly, impartially, with sound judgement and for justifiable reasons.

**1.4** In addition, the role of elected Councillors on a Planning Committee in assessing material planning considerations (see section 5) involves balancing/representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals which give rise to great tensions.

## 2. THE NEED FOR A CODE

**2.1** Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.

**2.2** One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

## 3. SCOPE OF THE CODE

**3.1** This guidance note sets out the practices which Hartlepool Borough Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of Borough Council Officers and Members on planning matters.

**3.2** It applies to both Councillors and Officers who are involved in operating the

planning system - it is not, therefore restricted to professional town planners or to Members in Committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

**3.3** Both councillors and officers are guided by codes of conduct. The statutory code of conduct, supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all Planning Officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The ~~District~~ Borough Council also has a Code of Conduct for Employees, by which all employees are required to abide. In addition to these Codes, the Council's Rules of Procedure govern the conduct of Council business.

**3.4** Whilst this Code, and the others referred to above, attempt to be as clear as possible, ***if in doubt about how the guidance applies in particular circumstances seek advice***. Officers should seek advice from the Chief Solicitor, who also acts as the Council's Monitoring Officer under the Local Government and Housing Act 1989. Members can seek advice from the Development Control Manager or from the Principal Solicitor as appropriate.

**3.5** Appendix 1 also contains a list of other guidance on planning which is available from the Council.

**3.6** This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all applications, planning enforcement matters and also how the Council prepares a ~~Local Plan and the successor~~ its Local Development Frameworks. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contravenors in enforcement cases, and to landowners,

developers and objectors involved in plan proposals. The guidance applies to planning matters on which a decision will be taken by the Borough Council.

#### 4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

**4.1** Councillors and Officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the Borough. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may be given to Officers only through a Council or Committee decision. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust, respect and an understanding of each others roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

**4.2** Therefore:

- ***Individual Councillors should not give instructions to Officers on planning matters.***
- ***Officers' actions will follow Council policy and Committee/Board decisions.***
- ***Political group meetings should not be used to decide how Members should vote on applications and enforcement cases and Councillors are not mandated on these matters by a political group.***

**4.3** The Model Code sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests (see next section), but also appropriate relationships with other members, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to

councillors who become involved in making a planning decision is the requirement that a member

**“must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.” (Paragraph 6(a) Model Code of Conduct).**

**4.4** The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee.**

**4.5** Officers must always act impartially. The RTPI Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;
- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence; and
- shall not discriminate on grounds of race, sex, sexual orientation, creed, religion, disability or age, and shall seek to eliminate such discrimination by others and to promote equality of opportunity.

These guidelines should apply to all Planning Officers. More detailed guidance and requirements are in the Council's own Code of Conduct for Employees. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities

of senior staff, such as membership of political parties and serving on another Council.

**4.6** Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Model Code. Members are placed under a requirement by the Model Code to:

- treat others with respect; and
- not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

**4.7** The principles from the Relevant Authorities (General Principles) Order 2001 should guide the conduct of all Councillors. These principles are as follows:

- Selflessness
- Honesty and Integrity
- Objectivity
- Accountability
- Openness
- Personal Judgement
- Respect for Others
- Duty to Uphold the Law
- Stewardship
- Leadership

*The actions and conduct of Councillors and Officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the Borough as a whole, and should not be improperly influenced by any person, company, group or Parish/Town Council. The key is to demonstrate that each Council and Councillor's decision was taken on the facts alone, without any undue outside pressure.*

## 5. WHAT PLANNING DECISIONS ARE BASED ON

**5.1** Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, as amended, together with Government guidance and cases decided by the courts, define what matters are material to planning decisions.

**5.2 It is the responsibility of Officers in preparing reports and recommendations to Members, and in advising Committees, to identify the material planning considerations and to ensure Members are aware of those matters which are not material to planning decisions.**

**5.3** Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration.

Under Section 38 of the Planning & Compulsory Purchase Act 2004 if regard is had to the development plans the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The development plan consists of:

- The North East of England Plan, Regional Spatial Strategy (Issued 2008)
- The Hartlepool Local Plan (Including Minerals & Waste Policies) April 2006.

After April 2009 a limited number of Hartlepool Local Plan Policies not specifically saved by the Direction of the Secretary of State will cease to have statutory weight.

The Hartlepool Local Plan will in due course be superseded by the Hartlepool Local Development Framework.

**5.4** Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Planning Policy Statements (PPSs), Regional Planning Guidance, Regional Spatial Strategies (RSS), Circulars and Ministerial announcements;
- planning briefs and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making

comments, to the extent that they relate to planning matters;

- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

**5.5** There is much case law on what are, and are not material planning matters. ***Planning matters must relate to the use and development of land.*** For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions:***

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on

the opposite side of the road to or at the rear of an objector's house);

- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, e.g. restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

## 6. DUTIES AND SANCTIONS

The Council's Planning Committee exercises the Borough Council's statutory Local Planning Authority functions and ~~are~~ is the decision makers for the purpose of determining applications other than those matters falling within the Council's Scheme of delegation (see Appendix 4). Decision makers have a very special responsibility and have a number of statutory duties. There are also sanctions against the Council and Members for

a failure to properly discharge the Local Planning Authority function. These duties and sanctions are summarised in Appendix 2.

## 7. THE DECISION MAKING PROCESS

In reaching a decision on a planning application, Members need to:-

- identify the development plan policies which are relevant to the particular development proposal;
- identify any other material considerations;
- if there are other material considerations, the development plan should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an adopted development plan. Exceptionally, paragraph 21 of The Planning System: General Principles, a document published alongside Planning Policy Statement 1: Delivering Sustainable Development, advises that the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the welfare of a local community may be material. Such arguments will seldom outweigh the more general planning considerations. That means such considerations generally have less weight.

At a fundamental level, Members should go through the following three stage process when making a decision:-

### Stage 1

- Identify the relevant development plan policies and other relevant material considerations (if any) in respect of the application which need to be taken into account in the decision making process.

- (ii) Identify irrelevant matters which should not be taken into account in the decision making process. These include the applicant's personal qualities such as having a long term family connection with the area, his or her popularity in the community, the fact he/she is a local farmer, the fact that a son or daughter is just about to marry.

### **Stage 2**

Attach sufficient weight to the development plan policies and other material consideration for and against refusal or approval.

Paragraph 21 of The Planning System: General Principles, indicates that less weight is generally attached to personal circumstance. When they arise they fall to be considered not as a general rule, but as an exception to a general rule to be met in special cases.

Paragraph 13 of The Planning System: General Principles, indicates that Members must have proper regard to Government Statements of Planning Policy which indicates the weight to be given to relevant considerations. If Members elect not to follow relevant statements of the Government's Planning Policy, they must give clear and convincing reasons.

### **Stage 3**

Weigh the material considerations in reaching a decision.

A failure to follow the proper decision making procedure can give rise to a proceedings for a Judicial Review or a finding of maladministration by the Local Government Ombudsman.

- ***In the decision making process, Members should not take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government***

***guidance on the weight to be attached to relevant considerations.***

- ***Members should determine applications in accordance with the advice given to them by their professional officers unless they have good planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.***

## **8. LOBBYING OF AND BY COUNCILLORS**

**8.1** It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or to a Member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on Councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the Councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

**8.2** Councillors need to take account of the general public's (and the Ombudsman's) expectation that a planning application and other applications will be processed and determined in a transparently open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and

fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration.; or to the Standards Committee that a member has breached the local code.

**8.3** A Councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at Committee. Whilst in most circumstances this may not amount to a prejudicial interest in terms of the Model Code of Conduct, **the proper course of action for such a Member would be to make an open declaration and not to vote.** This can be seen, however, as a severe restriction on the Member's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a Member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.

**8.4** It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and what the National Code of Local Government Conduct calls the 'overriding duty as a Councillor ... to the whole local community'. However, the following guidance will be appropriate in most cases.

**8.5 Councillors who are lobbied on a planning matter before the Planning Committee:**

- *may listen to what is being said;*
- *may give procedural advice eg to write to the Director of Regeneration and Planning, the name of the Case Officer,*

*the deadline for comments, whether the application is to be determined by the Planning Committee or delegated to officers, how decisions are reached through Officer recommendation /Planning Committee;*

- *should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;*
- *should take great care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;*
- *should make it clear that Councillors will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;*
- *should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to oppose or support the application;*
- *should not negotiate detailed planning matters with applicants, agents, objectors, etc;*
- *should pass relevant correspondence to the Case Officer prior to any Committee meeting;*
- *should report instances of significant, substantial or persistent lobbying to the Development Control Manager or the Director of Regeneration and Planning.*

**8.6 Councillors who have openly declared their voting intention in advance of the relevant Committee meeting should make an open declaration and leave the meeting, taking no part in debate or voting.**

**8.7 To avoid impressions of improper influence which lobbying by Members can create:**

- *Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the Borough Council, and should not lobby other Councillors - such actions can easily be misunderstood by parties to the application and by the general public;*



- *Councillors should not put pressure on Officers for a particular recommendation;*
- *political group meetings should not be used to decide how Members should vote on planning matters;*
- *Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or proposals to be determined by the Borough Council. Where a Councillor is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.*
- *Whenever a Member is approached or lobbied on any particular application Members should consider distributing the draft letter attached as Appendix 3 which makes clear the neutral stance which Members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting.*
- *If Members attend private site meetings in their ward at the request of the applicant they should express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors, again, without expressing any opinion on the merits of the application prior to determination before Planning Committee.*
- *Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.*

## 9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

**9.1** The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving

clear information about applicable policies, etc before proposals are designed; and so they can improve the quality of applications and development. The Statement of Community Involvement provides further details on these matters.

**9.2** However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- *The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.*
- *Advice should be consistent and based upon the development plan and material considerations.*
- *Where the Director of Regeneration and Planning Services or the Assistant Director (Planning and Economic Development) is the decision-maker (for delegated matters - see later), he/she should normally not meet the applicant, agent or objectors to discuss a case without another Officer present.*
- *A written note should be made of all discussions with the applicant, agent or objectors. A follow-up letter is advisable, at least when documentary material has been left with the Council. A note should also be taken of telephone discussions.*
- *Whilst Councillors will not normally be involved in pre-application or pre-decision discussions, if a Councillor is present he/she should be accompanied by an Officer. The Councillor should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.*

**9.3** Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.*
- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*
- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an Officer cannot legally circumvent this procedure.*
- *Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant Committee.*

## 10. REGISTRATION OF INTERESTS

The Local Government Act 2000 and the Model Code place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by the Standards Board and advice may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public

inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

## 11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

**11.1** The Model Code abandons the use in the old National Code of the terms 'pecuniary' and 'non-pecuniary' interests. Instead, it uses the terms '**personal**' and '**prejudicial**' interests. The code defines a personal interest in any matter under discussion as:

(1) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; and

(2) if a decision upon it might reasonably be regarded as affecting to a **greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, a relative or a friend, or

- any employment or business carried on by such persons;
- any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.

**11.2** Where a member considers he has such a personal interest in a matter, he must always declare it, but **it does not then necessarily follow that the personal interest debars the member from participation in the discussion.**

**11.3** The member then needs to consider whether the personal interest is a **prejudicial** one. The code provides that a personal interest becomes a prejudicial one “...*if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member’s judgement of the public interest*”. A member with a prejudicial interest shall declare it and leave the room, **unless members of the public are allowed to make representations, give evidence or answer question about the matter** by statutory right or otherwise. If that is the case, the member can also attend the meeting for that purpose. However, the member must immediately leave the room once they have finished or when the meeting declares that the member has finished (if that is earlier). For the assistance of doubt, the member should not remain in the public gallery to observe the vote on the matter.

**11.4** The code will include some exceptions to this. For example, if the matter under discussion relates to:

- another authority of which the Councillor is a member;
- another public authority in which the councillor has a position of general management or control;
- a body to which the councillor has been appointed or nominated as a representative of the authority.

Then, in these circumstances, the interest **may not be regarded as prejudicial**. In practice, therefore, the member would need to declare the interest, but could participate.

**11.5** It can be seen that these provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor’s wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. Whilst the Standards Board, is

mandated to provide guidance on the Code of Conduct, the decision in the end will be for the councillor alone to take.

**11.6** Translated to a councillor’s involvement in planning issues, the two stage test of personal and prejudicial interests will, as now, require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the councillor, his family, friends or employer.

**11.7** The exceptions made to the definition of prejudicial interests relating to membership of outside bodies mentioned above are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the authority.

**11.8** When considered in the context of planning matters, this approach will require the exercise of particular judgment on the part of the councillor. The use of the term ‘prejudicial’ to describe the interest is helpful here. If a planning matter under consideration relates to another body upon which the councillor serves, the exemption in the Model Code would suggest that the member could participate in a decision on that matter - i.e. membership of that body could not be considered per se a prejudicial interest, which would bar the member.

**11.9** However, if a member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in meetings of the other body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account, they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of Judicial Review.

**11.10** There will be occasions when members will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that member be able to vote on any planning application relating to that development? The appropriate action is not clear cut, and may depend on the particulars of the case. However, the general advice would be that a member in such circumstances may well be so committed to a particular development as the result of undertaking the responsibilities of furthering the development of the area, that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached. Indeed, the member may be seen as an advocate on behalf of the authority or the other relevant body for the development in question. In such circumstances, the appropriate approach is likely to be that the member advocating for the development should not vote on the relevant applications.

## **12. PARISH OR TOWN COUNCIL MEMBERSHIP**

**12.1** The Council consults the relevant Parish Council or Parish Meeting on every planning application. Planning Officers may, on request, attend a Parish Council meeting early in the life of an application to explain the facts of the application and any relevant Development Plan policies.

**12.2** Difficulties can arise for Councillors who are members of a Parish Council as well as the Borough Council. By taking part in a Parish Council meeting when their comments on an application are agreed, a Borough Councillor will be seen to have made up her/his mind in advance of hearing all the issues at the decision-making Borough Council Committee. The member could be considered to have fettered his or her discretion. In those circumstances the member should not participate at the ~~district~~ Borough Council meeting.

In such cases the member has been excluded not because of the Code but because the member's previous actions had fettered his or her discretion and possibly laid the Borough Council open to the objection that the planning process had been tainted. So, a member has to

choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making; or reserve judgment until all views have been considered and only then form a view.

*'Dual' Members should therefore either:*

- *not take part in the discussion of an application at the Parish Council meeting at which comments are agreed; or*
- *not take part in the discussion/decision on the application at the Borough Council Committee;*

Furthermore:

- *although the consultation response from a Parish Council is a relevant consideration, Members should not automatically defer to the Parish Council view, because Parish Councils do not have the advice of professional Planning Officers in reaching their decision.*

## **13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL**

**13.1** Members or Officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the Development Control Manager or the Director of Regeneration and Planning of the breach in writing.

**13.2** Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Development Control Manager and the Director of Regeneration and Planning and be the subject of an enforcement report to Planning Committee.

## **14. OFFICER REPORTS TO COMMITTEE**

**14.1** To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications,

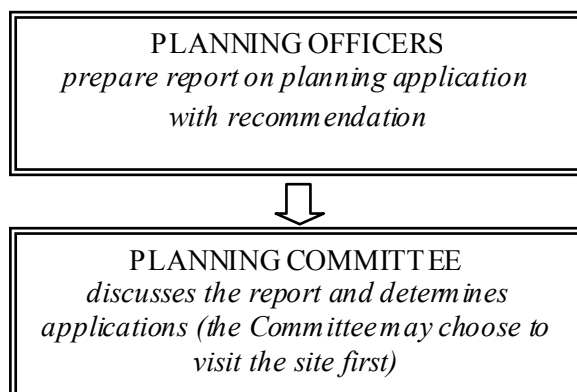
enforcement cases and other proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed through the Development Control Manager and will reflect the collective view of the Department - not the view of the individual author.

#### 14.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and applicable policies and their implications for the case; the site or related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any conditions, planning agreement or obligation proposed in association with the planning permission.

## 15. COMMITTEE PROCEDURES

15.1 The procedure for processing planning applications considered by the Council's Planning Committee may be summarised as follows:



15.2 Reports are available to the public five working days before the Committee on request. Paragraph 14.2 describes the content of reports. The application files, containing all comments, are also available at that stage. Late letters and other information may be put to Committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend Committee meetings and may speak under the terms of the Council's public speaking policy.

15.3 A guidance leaflet on public speaking and the process to be followed is available from the Borough Council. In essence, the officer will explain what is proposed and highlight the key planning issues. An applicant (or agent) wishing to speak on an application can ask to address the Committee for a defined time. Members may then ask questions of that individual if they wish. If an objector wishes to speak they can then do so for a defined time. Again, Members may ask questions of that individual. Members will then debate the merits of the case and arrive at a decision.

15.4 It is important that Members are present throughout all the debate on an item. If any Member has to leave the Committee meeting for any reason, thereby missing any part of the proceedings, he/she should take no further part in the voting arrangements for the item(s) considered during their absence.

15.5 The Planning Committee may agree or disagree with the report and recommendation (but see sections 18 and 19 below). Having considered all the relevant planning matters, the Committee may:

- grant planning permission, usually with appropriate planning conditions;
- refuse planning permission, with justified planning reason(s);
- defer the application for further consideration.

15.6 Planning enforcement decisions are normally taken by the Planning Committee. A written Officer report will normally be prepared in advance of the Committee. The report and the discussion at the Committee on some enforcement matters may not be available to the public, for example if the

Council is considering a prosecution in the courts. Schedule 12A of the Local Government Act 1972 as amended sets out what can be considered in private.

**15.7** Decisions on Local Development Framework proposals are referred to the Cabinet or Portfolio Member, following consideration of a written Officer report.

**15.8** The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will usually not be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chairman of the meeting, assisted where appropriate by officers. To facilitate this:

- *a briefing for the Chairman and Vice-Chairman of the Planning Committee will be held after the Officer reports and recommendations have been published. The purposes of these briefings is to inform the Chairman and Vice-Chairman of the issues, to ensure that the rationale for the Officer recommendation is explained, and to identify any potentially problematic or controversial items;*
- *one or more Chartered Town Planners will be present at all Planning Committee meetings at which planning matters are considered;*
- *a Legal Officer will normally also be present.*

## 16. COMMITTEE SITE VISITS

**16.1** The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a Ward Councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the Ward Councillor can justify his/her request in relation to material planning considerations.

Site visits should not be employed merely to appease local interest in an application.

**16.2** However, site visits cause delay and add costs for the applicant and Council, and should only be used where there are substantial benefits. Therefore:

- *A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by Officers, or if the proposal is particularly contentious.*
- *The reasons for a site visit should be clearly stated and minuted.*
- *All Members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following Committee meeting.*

**16.3** Site visit meetings will be conducted in a formal manner:

- *The Chairman should start by explaining the purpose and conduct of the site inspection.*
- *The Officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.*
- *The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.*
- *To avoid giving an impression of being lobbied, Members should not listen to or talk to any individuals whilst on site, unless being addressed as a group. Any comments should be made to the whole group through the Chair.*
- *The public, applicant or objector may attend the site inspection and will be invited by the Chair to draw Members' attention to any salient features or to any relevant factual information.*
- *Other than to draw Members' attention to any salient feature or to clarify a factual point, the public, applicant and objector will not be allowed to participate.*
- *To avoid Members being spoken to individually, the Chairman should*

*endeavour to keep the Committee together as a group.*

- *No discussion or decision-making will take place on site.*
- *No hospitality will be accepted before, on or after site visits.*
- *Members or Officers who have any declarable interest which means they should not participate at Committee on determining the application should not attend a site inspection.*

## **17. DECISIONS DELEGATED TO OFFICERS**

**17.1** The Council has agreed that decisions on certain types of application can be taken by the Director of Regeneration and Planning through the Development Control Manager or the Assistant Director of (Planning and Economic Development). These are less contentious proposals, although they can be significant in scale. This includes house extensions, advertisements, industrial and housing developments, the discharging of planning conditions and breaches of planning conditions imposed by a Committee. The full list of decisions delegated to the Director of Regeneration and Planning is set out in Appendix 4. The system allows quicker decisions to be taken on straightforward matters.

## **18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN**

**18.1** Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 5.3).

**18.2** *If Officers are recommending granting planning permission contrary to the development plan:*

- *The decision will always be taken by Committee, and not as a delegated decision.*
- *The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.*

- *The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (General Development Procedure) Order 1995 Article 8.*

**18.3** If the decision would be a significant departure from the Development Plan, (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Secretary of State for Communities and Local Government to enable him/her to decide whether to 'call in' the application to be decided centrally.

## **19. DECISIONS CONTRARY TO OFFICER ADVICE**

**19.1** If the Planning Committee makes a decision contrary to the Officers' recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the Officers' recommendation, or the Chairman, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be material planning considerations (see section 5 above);*
- *the Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and , if an approval is proposed, to recommend appropriate planning conditions;*
- *if the decision would be contrary to the Development Plan, then the Officer should comment on the extent to which the other planning considerations could be seen to override the Development Plan, and on whether the decision would be a significant departure from the plan requiring (see section 18 above);*
- *where Planning Committee indicates that it is not minded to accept the Officers recommendation for approval, the planning application should be deferred to the next available meeting of Planning*

*Committee where so requested by the representatives of the Director of Regeneration and Planning. This deferral period enables Officers to prepare clear and convincing planning reasons for refusal;*

- *a detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Development Plan, the minute should state that and clearly set out those planning considerations which override the development plan.*

**19.2** If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes. Both reasons for refusal and reasons for supporting conditions need to clearly refer to applicable Development Plan policies, where relevant.

## **20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED**

**20.1** One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

**20.2** The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously

refused, where there has been no significant change in the planning circumstances, is maladministration if:-

- insufficient weight has been given to Officers' recommendations and Central Government guidance; and
- there is a failure to give and record reasons for the authority's change of mind.

**20.3** Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

**20.4** Therefore:

- *If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval are before a vote is taken.*
- *If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.*

## **21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS**

**21.1** Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. Proposals can take the form of either planning applications or Development Plan proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.



**21.2** Planning proposals from Officers and Councillors (which are otherwise deemed by the Director of Regeneration and Planning, or his representative, to be contrary to the principles set out in the scheme of delegation) shall proceed to determination before Planning Committee, subject to the following principles:

- *Serving Councillors and Officers who submit their own proposal to the authority they serve should play no part in the decision-making process for that proposal.*
- *Such proposals will be reported to Committee and not dealt with by the Director of Regeneration and Planning under delegated powers.*
- *The Council's Monitoring Officer should be informed of such proposals by serving Councillors, and the Officer's report to the Committee will show that the applicant is a Councillor.*
- *Councillors and Officers should never act as agents for people pursuing a planning matter with their own authority.*

**21.3** For proposals submitted by close relatives and friends of Officers involved with the development control process:

- *The Officer concerned will have no involvement with the application.*
- *The Officer concerned should alert the ~~Director of~~ Director of Regeneration and Planning and/or the Development Control Manager to the proposal.*

**21.4** Where a planning proposal directly affects the property or personal interests of a Councillor, she/he should play no part in the decision-making process. This would apply, for example if a Councillor submitted comments, as a neighbour, on a planning application.

**21.5** Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

## 22. THE COUNCIL'S OWN DEVELOPMENTS

**22.1** Proposals for the Council's own development have to be treated in the same way as those by private developers.

- All applications for the Council's own development, which are contrary to the principles set out in the scheme of delegation, will be reported to Committee and not dealt with by the officers under delegated powers.
- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

## 23. THE MEDIA

**23.1** The principles of this Code also apply to press contact. Councillors and Officers when commenting to the media on planning matters should:

- *have regard to the points made in the section on lobbying (Section 8);*
- *ensure that they do not give the impression that they have pre-judged the planning application;*
- *make clear that Councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;*
- *for delegated applications, make clear that the Director of Regeneration and Planning or his appointed representative will retain an open mind until such time as the full facts are available and presented for decision.*

**23.2** Any Officers can provide facts about a planning matter which are in the public domain and available to the media. However, the media should be referred to the Director of Regeneration and Planning or his appointed representative for attributable comments.

## 24. RECORD KEEPING AND COMPLAINTS

**24.1** The Council has established its own Complaints Procedure. Complaints are first investigated within the Department by an Officer more senior than the Case Officer who has no connection with the planning system.. If the complaint cannot be resolved within the Department it will be referred to the Performance Portfolio Holder for consideration in accordance with the Council's Complaints Procedure.

**24.2** So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- *The main source of this documentation will be the Officer report to Committee and, if the Committee does not agree the recommendation, the Committee minutes.*
- *For delegated applications, a formal note of the main planning considerations is written and kept on file.*
- *These principles apply equally to enforcement and Development Plan matters.*
- *All Committee reports and delegated decision reports will be checked and agreed by the Development Control Manager.*
- *A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in*

*proportion to the significance of the event.*

**24.3** Section 14 gives more details on what reports contain.

## 25. TRAINING

**25.1** As section 5 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each Councillor and Officer in the Regeneration and Planning Department, including new Councillors and employees.
- The Council will provide periodic training events for Councillors on planning, which all Members should endeavour to attend.
- Members newly elected to the Council should attend a training event on planning within their first year on the Council. A special training event for Members will be held after each four-yearly election of all Members.
- The Council will employ a Chartered Town Planner as Development Control Manager and will attempt to employ trained or Chartered Town Planners to operate its main planning functions.
- The Council will, as far as possible, assist Officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on Chartered Town Planners.

## 26. LEARNING FROM PAST DECISIONS

**26.1** The lessons to be learnt from any complaint against the Planning Service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by Planning Officers of a selective number of planning decisions which will be appraised through training and

other initiatives, including the visiting of affected sites and so considering where appropriate any complaints to learn from experience.

**26.2** The Council is working towards a more systematic way of learning lessons from a sample of past planning decisions and outcomes.

## 27. HOSPITALITY

**27.1** *Councillors and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.*

**27.2** Councillors should also be very cautious about accepting gifts and hospitality. The Model Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £25, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.

**27.3** Similarly, officers, during the course of carrying out their duties, may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. The Council maintains a hospitality book to record such offers whether or not accepted. This book should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is likely to be a feature of the statutory code of conduct for employees.

**27.4** The presumption should be that any gift is normally refused.

- Letters containing racist comments will be returned to the writer;
- Racist comments will not be referred to in reports to Committees;
- Persistent racist comments will be referred to the Commission for Racial Equality or the Police. This is to ensure that the Council abides by Sections 31 and 33 of the Race Relations Act 1976.

**28.2** Any applicants suggesting that they have been affected by racial abuse in whatever form, will have their application considered by Planning Committee and the Monitoring Officer will be advised of the circumstances and representations received.

## 28. RACIST COMMENTS

**28.1** The Council will follow the procedures in the RTPI note "Planning Authorities and Racist Representations". In particular:

**APPENDIX 1: OTHER GUIDANCE****FROM HARTLEPOOL BOROUGH COUNCIL**

Code of Conduct for Members  
Code of Conduct for Employees  
Council's Constitution  
Statement of Community Involvement (2006)

**FROM OTHER ORGANISATIONS**

‘Code of Professional Conduct’ The Royal Town Planning Institute, (January 2001).

‘Guidance for Good Practice on Members’ Interests’, the Commission for Local Administration in England, April 1994.

‘Probity in Planning’, Local Government Association, 1997.

‘The Role of Elected Members in Plan Making and Development Control’, RTPI, 1997.

‘Planning Authorities and Racist Representations’, RTPI, July 1996.

‘Probity in Planning (Update)’, Local Government Association (March 2002)

‘Lobby groups’, dual-hatted members and the Code of Conduct – Guidance for members, Standards Board for England (September 2004).

‘Positive Engagement’ – A Guide for Planning Councillors (2005 – updated)

‘Model Members Planning Code of Good Practice – ACSeS (2003 –updated)

**APPENDIX 2: DUTIES AND SANCTIONS****1. DUTIES OF MEMBERS**

In determining applications, Planning Committee is not bound to follow the Officer's recommendation contained in a report. The Committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever Members do for example in approving applications contrary to Officer's recommendations, National and Development Plan Policy.

Members of the Local Planning authority have the following duties:-

- (i) Members must at all times act within the law;
- (ii) The overriding duty of Members is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community;
- (iii) Members have a statutory duty when determining planning applications to have regard to the provisions of the development plan where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Members have a statutory duty to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise (Section 38 of the Planning and Compulsory Purchase Act 2004).
- (v) Members have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses: Section 16 of the Planning (Listed Building and Conservation Area) Act 1990.
- (vi) Members have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (vii) Members have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 2. SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS

Sanctions against Local Planning Authorities and Members are necessary because duties without sanctions would be potentially unenforceable. This part of the code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and Members.

The consequences of an unlawful or unreasonable planning decision are that the Council and Members would become subject to the scrutiny of the following external agencies:-

### (1) THE STANDARDS COMMITTEE, THE STANDARDS BOARD FOR ENGLAND AND THE ADJUDICATION PANEL

Part III of the Local Government Act 2000 introduced the Ethical Framework for Local Government. This is a statutory framework within which members must operate. Local Authorities including District Councils, Parish and Town Councils have experienced a significant strengthening of the standards of conduct arrangements within which elected and co-opted members must operate, backed up by an external regulator to ensure compliance.

The Ethical Framework has four key elements:

- (1) Codes of Conduct;
- (2) a national regulatory and advisory organisation called the Standards Board for England;
- (3) the Adjudication Panel which may set up a tribunal to consider cases of misconduct by Members and;
- (4) Local Authority Standards Committees.

The framework is concerned with the proper behaviour of politicians in public life, namely:

- (1) the way in which politicians conduct themselves in decision making;
- (2) their relationships with constituents, officials and outside interests; and
- (3) how conflicts of interest are declared and handled in the decision making environment of a Council.

#### (a) STANDARDS COMMITTEE

Since 8 May 2008 the responsibility for considering complaints that a member may have breached the Code of Conduct rests with the Standards Committees of local authorities. The Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, provides that a Standards Committee can refer complaints that a member has breached the Code of Conduct to the Monitoring Officer for investigation or other action. The Standards Committee also has discretion to refer a complaint to the Standards Board for England for investigation.

#### (b) STANDARDS BOARD FOR ENGLAND

The Board, may instruct an Ethical Standards Officers to conduct an investigation. Ethical Standards Officers have considerable autonomy in deciding the approach they will take, with extensive statutory powers to require Councillors to:

- (a) attend before him or her in person;

- (b) furnish information and produce correspondence.

If a Councillor fails to comply with a request of an Ethical Standards Officer this is an offence with a maximum fine on conviction of £1000.

An Ethical Standards Officers will decide either that:

- (a) there is no evidence of misconduct;
- (b) there is evidence but no action needs to be taken;
- (c) that the matter should be referred back to the Standards Committee, or
- (d) that it should be referred to the President of the Adjudication Panel for adjudication by a Case Tribunal.

In assessing these powers, it is important to remember that they are only concerned with misconduct - not with fraud or corruption.

#### (c) **ADJUDICATION PANEL**

The Adjudication Panel for England is constituted separately from the Standards Board. It will establish case tribunals to consider matters referred to it by the Ethical Standards Officers. The person subject to the adjudication may appear or be represented before the case tribunal. Where that tribunal finds misconduct, it may suspend a member (up to one year, although this must not extend beyond the person's term of office), disqualify from present or future membership (up to five years) or take no disciplinary action. There is a right of appeal to the High Court.

#### (2) **DISTRICT AUDITOR**

Section 91 of the Local Government Act 2000 introduces a system of advisory notices. Advisory notices will apply to all bodies subject to audit under the Audit Commission Act 1998.

The advisory notice gives auditors time to seek the opinion of the Courts on the legality of an Authority's actions where they consider that the Authority or a committee is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the Authority concerned.

An Authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the Authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the Authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the Court on the legality of the proposed course of action. The Authority may then only proceed with the action if the Court decides that it is lawful or if the auditor does not seek a Court's opinion within the notice period.

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;

- (c) costs of local public inquiries, including possible award of applicants' costs following use of Secretary of State's call in powers;
- (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

(3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:-

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;
- (c) failure to give due weight to Officer's recommendations and National Policy coupled with a failure to give and record clear and convincing planning reasons for approving a planning application where a planning application for substantially the same development has previously been refused;
- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974, as amended.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believe that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:-

- (a) whether the Council determined the planning application in accordance with the Development Plan or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;
- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;



- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the claimant succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the claimant's action to be awarded against the Council.

(5) **THE “CALL IN” POWERS TO THE SECRETARY OF STATE**

The Secretary of State has call in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with National and Development Plan Policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the Local Planning Authority. This power is contained in Section 77 of the Town & Country Planning Act 1990, as amended.

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

**APPENDIX 3****DRAFT LETTER FOR LOBBYISTS**

Dear Sir/Madam

**The Role of a Councillor in a Planning Application**

Thank you for seeking my advice as a Borough Councillor on a planning application. I will do all that I can to see that the matter is dealt with as fairly and as quickly as possible. My role as a Councillor is to listen and assist you and others through the planning process. The process is complex and involves consulting a number of different people. The views of various people will not always coincide.

The Council has adopted policies on most planning matters and it is important that applications are dealt with firmly in accordance with those policies so that decisions are consistent throughout the Borough.

A large number of applications are dealt with directly by Planning Officers under powers delegated to them. Other applications are dealt with by Planning Committee. If I am a member of the appropriate Committee I will have a vote on this application. If not, I may be able to attend the Committee if the application is within my Ward, but not vote. It is not possible for me to provide any commitment or support for an application or objection until I have heard all the facts presented at Committee. I may also be approached by others who will take a different point of view to you and I will therefore need to weigh up all the conflicting considerations.

Any views that you have on an application should be sent directly to the Council's Director Regeneration and Planning and any correspondence or information that I have received will also be passed on to the appropriate officer.

I am required by the Council's Code of Practice not to lobby or attempt to influence Planning Officers or fellow Councillors. I therefore cannot act as an advocate or agent on your behalf.

If I am a Member of the appropriate Planning Committee I may refer you to another Councillor who will help you make out your case.

If I am involved in making a decision on an application I cannot accept any gifts or hospitality from you or be seen to meet you or to meet you on or off site or otherwise give the impression of influence or bias.

I hope this clarifies my role as Councillor in the planning process.

**APPENDIX 4: SCHEME OF DELEGATION****Development Control Scheme of Delegation**

As of May 2002 Hartlepool Borough Council has operated revised arrangements for dealing with planning applications.

The new arrangements have been introduced with a view to increasing the number of applications dealt with by Officers in accordance with Government guidelines and targets.

<b>Planning Committee</b>	
<b>Membership:</b>	<b>16</b>
<b>Quorum:</b>	<b>7</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
1. All functions relating to town and country planning and development control (as set out in Part A of Schedule 1 to the Regulations).	<b><i>Director of Regeneration and Planning</i></b>  1. Power to carry out all of the functions of the Committee in paragraphs 1-5 adjacent, subject to the following exceptions:
2. Powers relating to the protection of important hedgerows (as set out in Part I of Schedule 1 to the Regulations).	i) in the case of any relevant application which is submitted to the Council for determination, any matter which any member requests should be referred to the Committee for decision, such request to be received in writing within 21 days of publication of details of the application,
3. Powers relating to the preservation of trees (as set out in Part I, Schedule 1 to the regulations).	ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial,
4. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.*	iii) the determination of applications submitted by the Council in respect of its own land or proposed development, except those relating to operational development to which there is no lodged objection,

Planning Committee (continued)	
Function	Delegation
<p>5. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.*</p>	<p>iv) the refusal of an application except with the agreement of the Chair of the Committee.</p>
	<p>v) except in cases of urgency</p> <ul style="list-style-type: none"> <li>a) power to require the discontinuance of a use of land</li> <li>b) power to serve a stop notice</li> <li>c) power to issue an enforcement notice</li> <li>d) power to apply for an injunction restraining a breach of planning control</li> <li>e) power to require proper maintenance of land</li> <li>f) power to serve a building preservation notice and related powers</li> <li>g) power to issue enforcement notice in relation to demolition of unlisted building in conservation area</li> <li>h) powers to acquire a listed building in need of repair and to serve a repairs notice</li> <li>i) power to apply for an injunction in relation to a listed building,</li> </ul> <p>exercise of such powers to be reported for information to the next available meeting of the Committee.</p> <p>2. Power to formulate decision notices following decisions made in principle by the Committee.</p>

Planning Committee (continued)	
Function	Delegation
<p>6. Powers, related to Commons Registration as set out in part B of Schedule 1 to the Regulations. [1B.37 &amp; 38]</p>	
<p>7 Functions relating to public rights of way (as set out in Part 1 of Part I of Schedule 1 to the 2001 Regulations).</p>	<p><b><i>Director of Neighbourhood Services</i></b></p> <ol style="list-style-type: none"> <li>1. Power to negotiate and set charges for diversion or related matters and to take action regarding blockages or Rights of Way issues other than those related to countryside management.</li> <li>2. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way (other than those delegated to the Director of Community Services), following discussion of the issues with the Chair of the Committee.</li> </ol>
	<ol style="list-style-type: none"> <li>1. In relation to matters which are relevant to countryside management, power to negotiate and set charges for diversion or related matters and to take action regarding blockage on Rights of Way issues.</li> <li>2. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way which are relevant to countryside management.</li> </ol>

Planning Committee (continued)	
Function	Delegation
	<p><b><i>Chief Solicitor</i></b></p> <ol style="list-style-type: none"> <li>1. Power to confirm without modification unopposed creation, diversion or extinguishment Orders in respect of Public Rights of Way, following the statutory advertising period.</li> <li>2. Power to confirm, without modification, unopposed footpath and footway conversion orders following the statutory advertising period.</li> <li>3. Power to confirm, without modification, all future unopposed Definitive Map Modification Orders following the statutory advertising period.</li> </ol>
<p>8 The licensing and registration functions set out in Part B of Schedule 1 to the regulations at points 41 and 47-55 relating to the New Roads and Street Works Act 1991 and the Highways Act 1980.</p>	<p><b><i>Director of Neighbourhood Services</i></b></p> <p>Power to carry out all of the functions of the Committee with the exception of any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial.</p>
<p>*This may also arise in connection with the responsibility of the Executive and will be exercised accordingly.</p>	

**Report of:** Assistant Director (Planning & Economic Development)

**Subject:** OMBUDSMAN'S COMPLAINT – DEVELOPMENT AT THE GREEN, SEATON CAREW

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**1. PURPOSE OF REPORT**

- 1.1 To advise Members of the results of an investigation by the Ombudsman into a complaint of maladministration.

**2. BACKGROUND**

- 2.1 In July 2008 planning permission was granted for alterations and change of use of 10 The Green, Seaton Carew to provide 12 self contained flats (H/2007/0714).
- 2.2 A neighbour subsequently complained to the Ombudsman suggesting there was inadequate notification of the application, the Local Planning Authority did not keep residents up to date on the application and approved a development that is inconsistent with Seaton and Seaton Carew Conservation Area.
- 2.3 The investigation has now been terminated and a decision of “No/insufficient evidence of maladministration” will be recorded for this case. It is clear there was no maladministration in this case.

**3. RECOMMENDATION – Members note this decision.**