

# PLANNING COMMITTEE AGENDA



Wednesday 7<sup>th</sup> October 2009

at 10.00 am

in the Council Chamber  
Civic Centre, Hartlepool

## MEMBERS OF PLANNING COMMITTEE:

Councillors Allison, R W Cook, S Cook, Cranney, Fleet, Griffin, Laffey, G Lilley, London, J Marshall, McKenna, Morris, Plant, Richardson, Wallace and Wright.

### 1. APOLOGIES FOR ABSENCE

### 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

### 3. MINUTES

3.1 To confirm the minutes of the meeting held on 9<sup>th</sup> September 2009

### 4. ITEMS REQUIRING DECISION

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

- |    |             |                                  |
|----|-------------|----------------------------------|
| 1. | H/2009/0385 | 28 Hillston Close                |
| 2. | H/2009/0352 | Jesmond Gardens                  |
| 3. | H/2009/0390 | Teesbay Retail Park, Brenda Road |
| 4. | H/3009/0493 | 88 York Road                     |
| 5. | H/2009/0404 | 21 Fewston Close                 |
| 6. | H/2005/5254 | Britmag Ltd, Old Cemetery Road   |

4.2 Appeal by Craig Wilkinson, Site at Land Adjacent to Kiddicare Day Nursery, Warrior Drive, Seaton Carew, Hartlepool (H/2009/0154) – *Assistant Director (Planning and Economic Development)*

4.3 Appeal Ref APP/H0724/A/09/2106703/NWF H/2009/0171 – Installation of a New Shopfront including Alterations to Provide Separate Access to First Floor

Flat – Allsorts, 33 The Front, Seaton Carew TS25 1BS – *Assistant Director (Planning and Economic Development)*

- 4.4 Appeal Ref: APP/H0724/A/09/2099083 H/2008/0616 – Variation of Condition 2 of Planning Permission H/2006/0839 to allow Opening on a Sunday Between the Hours of 10am and 11pm – Site at 132 Oxford Road, Hartlepool, TS25 5RH – *Assistant Director (Planning and Economic Development)*
- 4.5 Appeal by Mr Peter Frank, Site at P E Coaches, Usworth Road, Hartlepool, TS25 1PD (H/2009/0338) – *Assistant Director (Planning and Economic Development)*
- 4.6 Update on Current Complaints – *Assistant Director (Planning and Economic Development)*
- 4.7 Hartlepool Retail Study 2009 – *Assistant Director (Planning and Economic Development)*
- 4.8 Response to DCLG Consultation on Planning Policy Statement 15 – Planning for the Historic Environment – *Assistant Director (Planning and Economic Development)*

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

**6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**EXEMPT ITEMS**

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

**7. EXEMPT ITEMS REQUIRING DECISION**

- 7.1 Complaints Files to be Closed – *Assistant Director (Planning and Economic Development)*

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

**9. FOR INFORMATION**

Next Scheduled Meeting – Wednesday 4<sup>th</sup> November 2009 in the Civic Centre at 10.00 am.

Site Visits – Any site visits requested by the Committee at this meeting will take place immediately prior to the next Planning Committee meeting on the morning of Wednesday, 4<sup>th</sup> November at 9.00am

# **PLANNING COMMITTEE**

## **MINUTES AND DECISION RECORD**

9 September 2009

The meeting commenced at 10.30 a.m. in the Civic Centre, Hartlepool

### **Present:**

Councillor: Rob Cook (In the Chair)

Councillors: Steve Allison, Kevin Cranney, Mary Fleet, Pauline Laffey, Geoff Lilley, Frances London, John Marshall, George Morris and Carl Richardson

In accordance with Council Procedure Rule 4.2 (ii), Councillor Christopher Akers-Belcher attended as a substitute for Councillor Sheila Griffin and Councillor Dave Young attended as a substitute for Councillor Chris McKenna

Officers: Stuart Green, Assistant Director (Planning and Economic Development)  
Richard Teece, Development Control Manager  
Christine Pipe, Principal Planning Officer  
Mike Blair, Transportation and Traffic Manager  
Sarah Scarr, Landscape Planning and Conservation Manager  
Adrian Hurst, Principal Environmental Health Officer  
Tony Dixon, Arboricultural Officer  
Richard Smith, Solicitor  
Jo Wilson, Democratic Services Officer

### **34. Apologies for Absence**

Apologies were received from Councillors Shaun Cook, Sheila Griffin, Chris McKenna, Steve Wallace and Edna Wright.

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

Councillor Rob Cook declared a personal non-prejudicial interest in item H/2009/0385 and indicated he would leave the meeting during consideration of this item.

Councillor Steve Allison declared an interest in item 7.1 and indicated he would leave the meeting during consideration of this item

Councillor Geoff Lilley declared a personal interest in item H/2009/0374 and indicated he would leave the meeting during consideration of this item

### 36. Confirmation of the minutes of the meeting held on 12 August 2009

Agreed

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

Members were informed that the following item was withdrawn from the agenda :

H/2009/0321 – Baker Petrolite

**Number:** H/2009/0216

**Applicant:** Mr A Churchill  
Endeavour House Stockton Road Hartlepool

**Agent:** Mr A Churchill Fire Brigade Headquarters  
Endeavour House Stockton Road Hartlepool

**Date received:** 15/07/2009

**Development:** Outline application for the erection of a new fire station

**Location:** HARTLEPOOL FIRE BRIGADE DURHAM STREET  
HARTLEPOOL

**Representations:** Mr D Turton attended on behalf of the applicant and answered questions accordingly

**Decision:** **Outline Permission Approved**

#### CONDITIONS AND REASONS

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 layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site

(hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority.

To ensure the site is developed in a satisfactory manner.

3. No development shall take place until a scheme for the car parking on the site has been submitted for the consideration and approval of the Local Planning Authority. Thereafter the approved scheme shall be implemented prior to the first operation of the fire station and retained for its intended use for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority.

In the interests of highway safety.

4. Final details of cycle parking and refuse storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme(s) shall be implemented and retained for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority.

In the interests of visual amenity and in the interests of promoting sustainable forms of transport.

5. 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 interests of crime prevention.

6. 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.

7. 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.

8. No development shall take place within the application site until the applicant, or their agents or successors in title, has completed the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the local planning authority. Where important archaeological remains exist provision can be made for their preservation in situ.

The site is of archaeological interest.

9. The development hereby permitted shall not be commenced until  
1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must

be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - a) human health,
  - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - c) adjoining land,
  - d) groundwaters and surface waters,
  - e) ecological systems,
  - f) archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

## 2. Submission of Remediation Scheme

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

## 3. Implementation of Approved Remediation Scheme

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

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

## 4. Reporting of Unexpected Contamination

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

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

#### 5. Long Term Monitoring and Maintenance

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

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

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

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

10. A final scheme for the foul and surface water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

To ensure the site is developed in a satisfactory manner.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2009/0217
<b>Applicant:</b>	Mr AChurchill Cleveland Fire Authority Hartlepool
<b>Agent:</b>	Cleveland Fire AuthorityMr A Churchill Endeavour House Hartlepool
<b>Date received:</b>	15/07/2009
<b>Development:</b>	Erection of a new office building to house brigade headquarters, learning and development centre, youth academy and technical services building complex and fire house
<b>Location:</b>	ENDEAVOUR HOUSE STOCKTON ROAD

## HARTLEPOOL

**Representations:** Mr D Turton attended on behalf of the applicant and answered questions accordingly.

**Decision:** **Subject to no objection from the Environment Agency and any conditions the Environment Agency deem necessary Outline Permission Approved**

## CONDITIONS AND REASONS

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 layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority.  
To ensure the site is developed in a satisfactory manner.
3. No development shall take place until a scheme for the car parking on the site has been submitted for the consideration and approval of the Local Planning Authority. Thereafter the approved scheme shall be implemented prior to the first operation of the development and retained for its intended use for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of highway safety.
4. Final details of cycle parking and refuse storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme(s) shall be implemented and retained for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of visual amenity and in the interests of promoting sustainable forms of transport.
5. 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 interests of crime prevention.
6. 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.

7. 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.

8. The development hereby permitted shall not be commenced until  
1. Site Characterisation

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

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - a) human health,
  - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - c) adjoining land,
  - d) groundwaters and surface waters,
  - e) ecological systems,
  - f) archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

#### 2. Submission of Remediation Scheme

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

#### 3. Implementation of Approved Remediation Scheme

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

must be given two weeks written notification of commencement of the remediation scheme works.

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

#### 4. Reporting of Unexpected Contamination

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

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

#### 5. Long Term Monitoring and Maintenance

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

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

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

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

9. A final scheme for the foul and surface water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

To ensure the site is developed in a satisfactory manner.

10. A detailed staff survey should be undertaken within 3 months of occupation of the centre and a detailed Travel Plan, including an action plan with detailed objectives, SMART targets and measures within 6 months of occupation of the development, shall be submitted to and

approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and shall continue in operation at all times as approved unless otherwise agreed in writing by the Local Planning Authority.

In the interests of sustainable transport.

11. Final siting and details of the fire training facilities, including mitigation measures to minimise the impact of the facilities on the neighbouring premises shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter fire training facilities shall be implemented and operated in accordance with the approved details at all times, unless otherwise agreed in writing by the Local Planning Authority.

To ensure the site is developed in a satisfactory manner.

12. The landscape strip adjacent the estate road shall be retained and a detailed scheme for the extension of the landscaping adjacent the proposed new access at the rear of the site, shall be submitted to and agreed in writing by the Local Planning Authority. The scheme must specify sizes, types and species, indicate the proposed layout and include a programme of the works to be undertaken. Thereafter the scheme shall be implemented in accordance with the approved details and programme of works, unless otherwise agreed in writing by the Local Planning Authority.

In the interests of visual amenity.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2009/0218
<b>Applicant:</b>	Mr A Churchill Endeavour House Stockton Road Hartlepool
<b>Agent:</b>	Mr A Churchill Cleveland Fire Brigade Endeavour House Stockton Road Hartlepool
<b>Date received:</b>	16/07/2009
<b>Development:</b>	Erection of a new fire station including youth academy and community use facility
<b>Location:</b>	FIRE STATION STRANTON HARTLEPOOL
<b>Representations:</b>	Mr D Turton attended on behalf of the applicant and answered questions accordingly.
<b>Decision:</b>	<b>Subject to no objections from the Environment Agency and any conditions the Environment Agency deem necessary Outline Permission Approved</b>

## CONDITIONS AND REASONS

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 layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority.  
To ensure the site is developed in a satisfactory manner.
3. 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. The details shall include a high quality boundary treatment to the north and western boundaries. The northern boundary shall incorporate public art and/or landscaping, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of visual amenity and as compensation for the loss of public open space.
4. No development shall take place until a scheme for car parking on the site has been submitted for the consideration and approval of the Local Planning Authority. Thereafter the approved scheme shall be implemented prior to the first operation of the fire station and retained for its intended use for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority.
5. Final details of cycle parking and refuse storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme(s) shall be implemented and retained for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of visual amenity and in the interests of promoting sustainable forms of transport.
6. The development hereby approved shall incorporate 'secured by design' principles. Details of proposed security measures shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of crime prevention.
7. 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.

8. The development hereby permitted shall not be commenced until

1. Site Characterisation

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

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

(ii) an assessment of the potential risks to:

a) human health,

b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

c) adjoining land,

d) groundwaters and surface waters,

e) ecological systems,

f) archeological sites and ancient monuments;

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

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

2. Submission of Remediation Scheme

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

3. Implementation of Approved Remediation Scheme

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

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

approval in writing of the Local Planning Authority.

#### 4. Reporting of Unexpected Contamination

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

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

#### 5. Long Term Monitoring and Maintenance

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

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

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

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

9. A final scheme for the foul and surface water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

To ensure the site is developed in a satisfactory manner.

The Committee considered representations in relation to this matter.

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**Number:** H/2009/0405

**Applicant:** Hospital of God at Greatham - C/O Agent

**Agent:** DKS Architects Mr Craig Stockley The Design Studio  
22 Ellerbeck Court Stokesley Business Park

Stokesley

**Date received:** 29/07/2009

**Development:** Alterations and extensions to provide 2 flats and 2 almshouses (revised application)

**Location:** WHITE HOUSE FARM STATION ROAD  
GREATHAM HARTLEPOOL

**Representations:** The Agent, Mr C Stockley, attended the meeting and answered questions accordingly

**Decision:** **Subject to no substantially different issues arising from the outstanding public consultation procedure Planning Permission Approved . The final decision on the detailed conditions was delegated to the Development Control Manager**

### 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. Notwithstanding the details submitted prior to their installation large scale details of all proposed new doors and windows (including false doors) shall be submitted to and approved in writing by the Local Planning Authority.  
In the interests of the character and appearance of the conservation area and visual amenity.
3. Notwithstanding the details submitted unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of development details of the external surface treatments including gardens/courtyard areas, pavements, parking and turning areas, shall be submitted to and approved in writing by the Local Planning Authority. The treatments thereafter approved shall be implemented at the time of development.  
In the interests of the character and appearance of the conservation area and visual amenity.
4. Details of all external finishing materials, including those of the proposed walls within the site, shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose where considered necessary by the Local Planning Authority.  
In the interests of the character and appearance of the conservation area and visual amenity.
5. Unless otherwise agreed in writing with the Local Planning Authority the development shall be carried out in accordance with the recommendations of sections 3.1 and 3.2 of the Bat Survey dated 8th July 2009 by Naturally Wild Consultants Ltd. In addition areas

providing potential opportunities for roosting bats shall be agreed in writing with the Local Planning Authority prior to the commencement of development and where works occur in these areas they shall be hand stripped in accordance with a methodology first agreed in writing with the Local Planning Authority.

In the interests of maintaining the biodiversity of the site and area.

6. Unless otherwise agreed in writing with the Local Planning Authority the use hereby approved shall not commence until proposals for the storage of refuse within the site have been implemented in accordance with the approved details.

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

7. Before the development is brought into use the approved car parking scheme, including the relocation of the light column, 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.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no garage(s) shall be erected without the prior written consent of the Local Planning Authority.

To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.

To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure, shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road, without the prior written consent of the Local Planning Authority.

To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

11. Unless otherwise agreed in writing with the Local Planning Authority the use hereby approved shall not commence until works to reinstate part of the existing vehicular access from Station Road to grass verge have been undertaken in accordance with the approved drawings. In the interests of the character and appearance of the conservation area, highway safety and visual amenity.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no additional windows(s) or doors shall be inserted in any elevation of the development without the prior written consent of the Local Planning Authority.  
In the interests of the character and appearance of the conservation area and visual amenity and to prevent overlooking.
13. 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.
14. 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.
15. Unless otherwise agreed in writing with the Local Planning Authority the external steps serving the existing doorways on the north and west elevation shall be retained.  
In the interests of the character and appearance of the conservation area, highway safety and visual amenity.
16. Notwithstanding the submitted details unless otherwise agreed in writing with the Local Planning Authority details for the treatment of the crossing point on Station Road shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The details so approved shall be implemented prior to the first occupation of the development.  
In the interests of highway safety.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2009/0403
<b>Applicant:</b>	Mr MMayes Egerton Road HARTLEPOOL
<b>Agent:</b>	S J R Architects Andy Riley Suite 101 The Innovation Centre Venture Court Queens Meadow Business Park HARTLEPOOL
<b>Date received:</b>	29/07/2009
<b>Development:</b>	Variation of condition 4 of planning permission

H/2008/0275 to permit openable clear glazed windows to bedrooms 1 and 3.

**Location:** 26 EGERTON ROAD HARTLEPOOL

**Representations** Mr Downes (Objector) attended the meeting and answered questions accordingly

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

### **REASONS FOR REFUSAL**

- 1 Given the relationship of 26 Egerton Road to the neighbouring properties of 24 and 28 Egerton Road it is considered that to vary condition 4 of planning permission H/2008/0275 to allow openable clear glazed windows as proposed would result in a level of overlooking that would be detrimental to the living conditions of the occupiers of those neighbouring properties contrary to policies GEP1 and Hsg10 of the adopted Hartlepool Local Plan 2006.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2009/0352
<b>Applicant:</b>	Adrienne Simcock Hartlepool Borough Council, Children Services
<b>Agent:</b>	GWK Chartered Architects Charlotte Henry First Floor Cathedral Building Dean Street Newcastle upon Tyne
<b>Date received:</b>	01/07/2009
<b>Development:</b>	Erection of primary school, nursery and associated works including car parking, drop off facilities, CCTV, landscaping, sports field and multi-use games area
<b>Location:</b>	LAND AT JESMOND GARDENS AND CHESTER ROAD HARTLEPOOL
<b>Decision:</b>	<b>Deferred for additional information about access and traffic related issues</b>

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**FOLLOWING HIS EARLIER DECLARATION OF INTEREST COUNCILLOR ROB COOK LEFT THE MEETING DURING CONSIDERATION OF THE FOLLOWING ITEM. COUNCILLOR GEORGE MORRIS TOOK THE CHAIR**

**Number:** H/2009/0385

**Applicant:** Mr Mark Griffin  
HILLSTON CLOSE HARTLEPOOL

**Agent:** Mr Mark Griffin 28 HILLSTON CLOSE  
HARTLEPOOL

**Date received:** 27/07/2009

**Development:** Erection of a part single and part two store two storey extension to provide family room, utility and garage with bedroom and en suite above

**Location:** 28 HILLSTON CLOSE HARTLEPOOL

**Representations:** Mr Miller (objector) attended the meeting and answered questions accordingly.

**Decision:** **Deferred for a Members' site visit**

The Committee considered representations in relation to this matter.

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**COUNCILLOR ROB COOK RETURNED TO THE MEETING AND RESUMED THE CHAIR**

**FOLLOWING HIS EARLIER DECLARATION OF INTEREST COUNCILLOR GEOFF LILLEY LEFT THE MEETING DURING CONSIDERATION OF THE FOLLOWING ITEM**

**COUNCILLOR DAVID YOUNG DECLARED A PREJUDICIAL INTEREST IN THE FOLLOWING ITEM AND LEFT THE MEETING PRIOR TO ITS CONSIDERATION**

**Number:** H/2009/0374

**Applicant:** North Tees/ H'pool NHS Trust

**Agent:** Nathaniel Lichfield And Partners Generator Studios  
Trafalgar Street Newcastle upon Tyne

**Date received:** 09/07/2009

**Development:** Outline application for residential development comprising 100 units

**Location:** THE UNIVERSITY HOSPITAL OF HARTLEPOOL  
HOLDFORTH ROAD HARTLEPOOL

**Representations:** Justine Matchett attended on behalf of the applicant and answered questions accordingly.

**Decision:** **Minded to APPROVE subject to the conditions set out below the satisfactory comments of the Environment Agency and subject to a legal agreement securing developer contributions of 10% affordable housing £35,000 contribution towards toucan crossing facilities/off-site play provision, £50 per dwelling towards improvements to public open space and £5,000 towards bus stop upgrades**

### CONDITIONS AND REASONS

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 layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter 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. 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 security.
4. 1. Site Characterisation  
The development hereby permitted shall not be commenced until a Phase II Site Investigation is carried out. The Site Investigation 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:

- a) human health,
- b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- c) adjoining land,
- d) groundwaters and surface waters. Should piled foundations be considered as part of the geotechnical design, then an assessment of the potential risks to controlled waters must be addressed.
- e) ecological systems,
- f) archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

## 2. Submission of Remediation Scheme

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

## 3. Implementation of Approved Remediation Scheme

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

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

## 4. Reporting of Unexpected Contamination

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

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

accordance with condition 3.

#### 5. Long Term Monitoring and Maintenance

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

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

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

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy GEP1 of the adopted Local Plan (2006).

5. If as a result of the investigations required by the condition(s) above (condition 5), landfill gas protection measures are required to be installed in any of the dwelling(s) hereby approved, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way, and no garage(s) shed(s), greenhouse(s) or other garden building(s) shall be erected within the garden area of any of the dwelling(s) without prior planning permission.

To enable the Local Planning Authority to exercise control to ensure land fill gas protection measures.

6. The development hereby approved shall not commence until replacement car parking facilities at least equivalent to those formerly used on the application site have been constructed and brought in to use in accordance with planning application H/2009/0378 approved 3 September 2009.

To ensure the site is developed in a satisfactory manner.

7. 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.

8. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Faber Maunsell, ref: HH FRA v2, dated January 2009, and the following mitigation measures detailed within the FRA:

1. No ground raising or loss of flood plain storage within that part of the

- site shown to be PPS25 Zone 3.
2. Floor levels to be a minimum of 150mm above site ground level. To reduce the risk of flooding to the proposed development and future occupants. To prevent flooding elsewhere by ensuring that existing storage of flood water is maintained.
9. 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 in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details. To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25 "Development and Flood Risk" and complies with the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2000.
10. Notwithstanding the submitted details, prior to the commencement of the development hereby approved, final details of the proposed acoustic barrier to the western and southern boundaries of the application site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the agreed details which thereafter shall be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of the amenities of the occupiers of the proposed dwellings.
11. The outline permission hereby granted shall relate to the provision of not more than 100 dwellings.  
For the avoidance of doubt.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2009/0391
<b>Applicant:</b>	Mr Brian Elder Elder Monsen Ltd Usworth Business Park Hartlepool
<b>Agent:</b>	S J R Architects Suite 101 The Innovation Centre Venture Court Queens Meadow Business Park HARTLEPOOL
<b>Date received:</b>	16/07/2009
<b>Development:</b>	Demolition of public house and erection of 4 retail units with 4 self-contained flats above and associated car parking (resubmitted application)
<b>Location:</b>	THE HEADLAND GATE NORTHGATE

HARTLEPOOL

**Representations:** Mr A Riley attended on behalf of the applicant and answered questions accordingly.

**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. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
3. The retail units shall only be open to the public between the hours of 7am to 11pm daily.  
In the interests of the amenities of the occupants of neighbouring properties.
4. 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.
5. Details of all walls, fences and other means of boundary enclosure including an acoustic barrier between the site and the adjacent residential properties at 114/116 Northgate and 2/4 Durham Street shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The development shall therefore be carried out in accordance with the approved details. The acoustic fence shall be provided before the first unit is occupied and thereafter it shall be retained during the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.  
In the interest of visual amenity and the amenities of the occupants of neighbouring properties.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any

variation.

In the interests of visual amenity.

7. Unless otherwise agreed in writing with the Local Planning Authority the floorspace of the units shall remain as shown on the approved drawing SJR/08.76 01 rec 16.7.09 and there shall be no amalgamation of floor space associated with any of the units  
In the interests of maintaining satisfactory parking provision within the site and in order to protect the vitality of the nearby local centre.
8. Provision for cycle parking shall be made within the site in accordance with details to be previously agreed by the Local Planning Authority.  
In order to promote access to the site by means other than the private car.
9. Final siting and design details of any refrigeration and air conditioning units proposed for the retail units shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the development. Thereafter the development shall be carried out in accordance with the approved details.  
In the interests of the amenities of the occupants of neighbouring properties.
10. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, 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. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.  
To ensure that any site contamination is addressed.
11. Notwithstanding the submitted plans a scheme for the final details and locations for external lighting shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the development. The scheme shall be implemented in accordance with the approved details and thereafter retained during the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

- In the interests of the amenities of the occupants of neighbouring properties and in the interests of crime prevention.
12. Servicing of the retail units hereby approved shall be restricted to between 7am and 8pm daily from both car parking areas and the former backlane adjacent to 114/116 Northgate  
In the interests of the amenities of the occupants of neighbouring properties.
  13. The proposed window(s) facing 114/116 shall be glazed with obscure glass which shall be installed before the dwelling is occupied and shall thereafter be retained at all times while the window(s) exist(s).  
To prevent overlooking.
  14. Final details of works to re-instate the former back lane between the new development and 114/116 Northgate shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development. This shall include details of how the public house delivery hatch is to be removed and in-filled.  
Thereafter the development shall be carried out in accordance with the approved details.  
In the interests of the amenities of the occupants of neighbouring properties and highway safety.
  15. No development shall take place until the applicant or their agents or successors in title, has secured the implementation of a programme of building recording and analysis in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the Local Planning Authority.  
As the building is of historic significance the specified record is required to mitigate impact.
  16. No development shall take place until further details of the new access, including existing and proposed ground levels, onto Durham Street have been submitted to and approved in writing by the Local Planning Authority  
In the interests of highway safety.
  17. Unless otherwise agreed in writing the development shall not commence until:
    - 1) a scheme for the provision of directional road markings at existing crossing points on Durham Street has first been submitted to and agreed in writing by the Local Planning Authority.
    - 2) A scheme for works to the existing bus layby to the north of Durham Street has first been submitted to and approved in writing by the Local Planning Authority.
    - 3) a scheme for improvements to the existing layby on the south side of Durham Street has first been submitted to and agreed in writing by the Local Planning Authority.

The development shall not thereafter be brought into use until all of the above works have been implemented, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of the amenities of the occupants of neighbouring properties and highway safety.

The Committee considered representations in relation to this matter.

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**Number:** H/2009/0363

**Applicant:** MR J BORTHWICK  
TUNSTALL AVENUE HARTLEPOOL

**Agent:** MR J BORTHWICK 21 TUNSTALL AVENUE  
HARTLEPOOL

**Date received:** 14/07/2009

**Development:** Change of use to fish and chip shop

**Location:** 168 RABY 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 premises shall only operate between the hours of 11:00 and 22:30 on any day.  
In the interests of the amenities of the occupants of neighbouring properties.
  3. 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.
  4. Unless otherwise agreed in writing with the Local Planning Authority before the use of the premises commences the premises shall be soundproofed in accordance with a scheme, which shall be first submitted to and approved in writing by the Local Planning Authority.  
Thereafter the approved scheme shall be retained during the lifetime of the development.  
In the interests of the amenities of the occupants of the flat above.
  5. Unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of development details of the proposed layout of the premises shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.  
The plans submitted with the application were insufficiently detailed.
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**Number:** H/2009/0393

**Applicant:** Mr J SCockrill  
ELWICK ROAD HARTLEPOOL

**Agent:** Mr J S Cockrill MEADOWCROFT ELWICK ROAD  
HARTLEPOOL

**Date received:** 17/07/2009

**Development:** Tree works including crown lifting of Norwegian Maple at main entrance and removal of six conifers (retrospective)

**Location:** MEADOWCROFT ELWICK ROAD HARTLEPOOL

**Decision:** **No objections and no further action be taken regarding the offence which has been committed by the early removal of the conifers but that the applicant be reminded in the strongest terms of the legislative requirements in relation to tree works in conservation areas/TPO'd trees**

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

The Development Control Manager drew Members attention to twenty ongoing issues, which were being investigated.

#### **Decision**

That the report be noted

### **39. Appeal Ref APP/H0724/D/09/2110473:H/2009/0248 Erection of a Replacement Boundary Enclosure and Gates, West Allen, Elwick Road, Hartlepool, TS24 9PB** (*Assistant Director (Planning and Economic Development)*)

The Development Control Manager advised Members that the above appeal had been submitted following refusal of the application under delegated powers, through the Chair, for reasons relating to highway safety. Authority was requested from members to contest the appeal under the

written representations procedure.

### **Decision**

That Officers be given authority to contest the appeal.

#### **40. Appeal by Malcolm Arnold, site at 18 Greenbank Court, Hartlepool (H/2009/0006)** *(Assistant Director (Planning and Economic Development))*

The Development Control Manager advised members that the above appeal, against refusal of planning permission for the erection of a first floor bedroom and en-suite extension above garage, had been allowed. The Inspector had felt that the proposed extension would not harm the living conditions of the occupants of No 14 Greenbank Court in terms of privacy.

### **Decision**

That the decision be noted

#### **41. Trees in Hartlepool** *(Assistant Director (Planning and Economic Development))*

The Landscape Planning and Conservation Manager gave members a brief update on the current levels of protection for trees in Hartlepool and future strategies. The Local Plan contains a number of policies which have a direct and indirect bearing on the protection, planting and management of trees in Hartlepool. Supplementary Planning Guidance is also available in 'Trees and Development', a document intended to provide a comprehensive guide to the Council's approach to the planning system relating to trees. The aim of both these documents is to protect trees where possible while allowing for the management of tree cover where necessary. The protection of trees is covered through Tree Preservation Orders which prevent trees being cut down, topped, lopped, uprooted or in any way damaged or destroyed. Within the last 5 years 288 trees have been protected under these orders. Trees located in conservation areas also have additional protections.

In 2005 a tree strategy was compiled as a position statement covering the various plans and strategies influencing trees in Hartlepool. However it was felt that an updated strategy was required. This update would be brought back to the Planning Committee for their comments prior to formal approval early 2010

A member reiterated the importance of replacing lost trees, urging officers to bring a report on this issue to Council. A specific request was made that the trees in the North Cemetery be replaced in order to prevent the area

becoming a vast open space. The need for future planning applications to include the provision of tree planting was also raised with the Development Control Manager indicating this was actively considered on all new developments.

A member acknowledged officers' previously stated concerns about a town-wide tree survey. However there were numerous examples of good trees which had been removed because they were unprotected. He questioned what value should be put on a tree and how they could be better protected. The Assistant Director (Planning and Economic Development) advised that any comments made by members would be fed into the tree strategy with the possibility of public consultation to give it added weight.

### **Decision**

That the report be noted.

## **42. Any other items which the Chairman considers are urgent**

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

Minute 43 - Planning site visit, 12<sup>th</sup> October 2009

Minute 44 – Britmag update

Minute 45 – Code of Practice training event

Minute 46 – Planning Working Group

Minute 47 – Planning Committee Code of Conduct

## **43. Planning site visit, 12<sup>th</sup> October 2009**

The Chair advised that a site visit would take place prior to the additional Planning Committee meeting on 12<sup>th</sup> October 2009 to consider the proposed hospital development at Wynyard. Transport would leave the Civic Centre at 12.30pm. A room had been made available at Wynyard Business Park to allow members to look at the plans prior to visiting the site. All members were encouraged to attend.

#### **44. Britmag Update**

The Development Control Manager advised that following a number of suggested alterations to the scheme a significant variation of the coastal defence plans had been submitted. The most recent plans were now the subject of public consultation before being brought back to Planning Committee for members' consideration, prior to referral to the public inquiry scheduled to start on 10<sup>th</sup> November 2009. Members noted this.

#### **45. Code of Practice Training Event**

The Development Control Manager advised members that a training event for Planning Committee members on the Planning Code of Practice had been scheduled for 23<sup>rd</sup> September 2009. There would be two very similar sessions, on the afternoon and evening and attendance would be compulsory. A member queried the implications if they were unable to attend but the Development Control Manager indicated that members' previous training records would be taken into account. Members noted this.

#### **46. Planning Working Group**

The Chief Solicitor advised members that the Planning Working Group set up to consider the Able UK inquiry costs had included a member who was not now on Planning Committee. A replacement would need to be appointed.

##### **Decision**

That Councillor Carl Richardson be appointed.

#### **47. Planning Code of Practice**

A member had queried section 8 of the code which stated that Councillors should make sure their views are not impinged by outside influences such as constituents or party politics. He was concerned that the current practice of officers making recommendations meant that members were put under undue pressure to follow these recommendations. He highlighted the section in the code which states 'Councillors should not put pressure on officers for a particular recommendation', which he felt should be a reciprocal arrangement. There were a number of Hartlepool Borough Council committees where recommendations were not given and members were asked to make a decision by themselves and he suggested this be extended to Planning Committee.

The Chief Solicitor informed members that members had discussed this

issue previously and agreed unanimously that recommendations were an integral part of the working of the Planning Committee. He was not aware of any other Tees Valley authority which did not use recommendations as part of the decision-making process. Officers were employed for their professional expertise and experience which they used to draft appropriate recommendations based on material planning considerations.

A brief discussion ensued during which members expressed their support for the practice of officer recommendations. They noted that recommendations did not have to be followed and recalled a number of examples when members had not followed that advice. Also if recommendations were not made meetings would take even longer than they did now.

### **Decision**

That the current practice of officer recommendations in respect of planning applications continue unchanged.

## **48. Local Government (Access to Information) (Variation Order) 2006**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved 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 49– Unauthorised Works to Properties in Conservation Areas (Para 6 - namely information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.)

Minute 50– Enforcement Action – the Schooner, Warrior Drive, Hartlepool – (Para 6 - namely information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.)

## **49. Unauthorised Works to Properties in Conservation Areas** *(Assistant Director (Planning and Economic Development))*. 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 which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or

direction under any enactment.

Members' approval was sought on taking the recommended course of action in relation to three cases of unauthorised works to properties in Conservation Areas. Details set out in the exempt section of the minutes.

### **Decision**

Details set out in the exempt section of the minutes.

## **50. Enforcement Action – The Schooner, Warrior Drive, Hartlepool** *(Assistant Director (Planning and Economic Development))*

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 which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.

Members were advised that this item had been withdrawn following the successful resolution of all matters

The meeting concluded at 2.30pm

CHAIRMAN

**No:** 1  
**Number:** H/2009/0385  
**Applicant:** Mr Mark Griffin 28 HILLSTON CLOSE HARTLEPOOL TS26 0PE  
**Agent:** Mr Mark Griffin 28 HILLSTON CLOSE HARTLEPOOL TS26 0PE  
**Date valid:** 27/07/2009  
**Development:** Erection of a part single and part two store two storey extension to provide family room, utility and garage with bedroom and en suite above  
**Location:** 28 HILLSTON CLOSE HARTLEPOOL

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## Background

1.1 The application was deferred at the previous Committee meeting to allow Members to undertake a site visit to the property. The site visit is scheduled to take place prior to the Committee meeting. The original Committee report is re-produced in full below.

## The Application and Site

1.2 The site to which this application relates is a two storey, detached property located on Hillston Close, within a predominately residential area. The property benefits from an existing single storey garage to the side and a two storey rear extension with dining room and lounge at ground floor and balcony at first floor approved under application H/FUL/0225/91. The garage to the side projects beyond the original rear wall of the house, the same depth as the rear extension.

1.3 The neighbouring property, 27 Hillston Close is set approximately 1m from the shared boundary with the application property. The applicant's garage projects approximately 3.13m past the rear wall of 27 Hillston Close. There are no habitable windows in the side elevation of 27 Hillston Close.

1.4 The application seeks consent for the erection of a part single storey and a part two-storey extension to the side facing the side elevation of 27 Hillston Close.

1.5 The application proposes the demolition of the existing double garage. The ground floor element of the extension will project no further than the existing garage at the rear. It will project further than the existing double garage by approximately 3.5m at the front. The ground floor element will incorporate a family room, utility, store and single garage. The first floor extension is to incorporate a master bedroom, dressing room and en-suite and will extend from the front wall of the ground floor element, back to the original rear wall of the main dwellinghouse. The single storey element will have a mono pitch roof as opposed to the dual pitch of the existing garage.

1.6 The extension will project the full width of the existing driveway, sitting flush with the shared boundary with 27 Hillston Close. The front elevation of the extension is set back 3.9m from the front elevation of the original property.

1.7 An additional high level window has been proposed in the side elevation facing 29 Hillston Close to allow for additional light into the lounge area to compensate for that lost by the secondary window in the side elevation facing 27 Hillston Close. Plans will be displayed at the meeting.

1.8 The applicant is related to a member of the Committee and is known to the Chair. He has therefore requested that the application be referred to the Committee for consideration.

### **Publicity**

1.9 The application has been advertised by way of neighbour letters (5). To date, there has been 1 objection.

The concerns raised are:

- a) Unduly large and out of keeping;
- b) Problems with car parking;
- c) Loss of privacy in rear garden of neighbouring property;
- d) Proposal is disproportionately large, almost doubling width of property;
- e) Already existing extension to the rear;
- f) Estate is one of detached houses, separated by garages/substantial space between offering privacy;
- g) Size and configuration of proposal is out of keeping with initial planning of the estate, bringing two houses closer together with a gap of 3 feet between them;
- h) Reduction in drive length creating difficulties with parking of vehicles, parking could overlap onto road;
- i) Use of the driveway would be obtrusive to privacy and could affect daylight;
- j) Visitors would overlap the drive or park on the road, obstructing good vehicles, refuse and causing parking problems in cul-de-sac;
- k) Demolition of garages will cause noise and dust pollution;
- l) Proposed side elevation indicates roof gradient of the roof appears lower/longer than existing garage roof exposing more of the balcony, creating an intrusion of privacy, along with proposed first floor rear window.

The period for publicity has expired.

Copy Letters A

## Planning Policy

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

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

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

## Planning Considerations

1.11 The main planning considerations in this instance are the appropriateness of the proposals in relation to the relevant adopted Hartlepool Local Plan (2006) policies, particularly in relation to the effect of the proposal on the amenity of neighbouring properties in terms of overlooking, loss of light, dominance and/or poor outlook, the effect on the character and appearance of the street scene, and the effect on the character of the existing property.

### Amenity of Neighbouring Properties

1.12 In relation to the two-storey element of the proposal, it is considered unlikely there will be a significant impact on 27 Hillston Close as that property benefits from a blank gable facing the two-storey element and it does not project beyond the rear wall of the neighbouring property. In terms of the single storey element, it is considered unlikely it will unduly affect the amenity of 27 Hillston Close as it projects no further than the existing garage. It should be acknowledged that the amended GPDO (Oct 2008) makes allowances for 4m projections on detached houses without the need for permission. In terms of dominance, outlook and overshadowing, the impact will be lessened slightly from that at present as the proposed roof will have a lower pitch.

1.13 With regard to the concerns raised by the objector over the existing balcony, the balcony was established by virtue of the original application (H/FUL/0225/91). It is considered that the slight reduction in the pitch of the roof would not significantly alter the existing relationship between the balcony and the property of 27 Hillston Close, and would not result in significant issues of overlooking.

1.14 In terms of the other concerns raised by objectors, it is acknowledged that provision of the window in the rear elevation of the first floor extension would allow overlooking of parts of the rear garden of 27 Hillston Close. However, there is substantial boundary screening to restrict views in to parts of the garden. The acute angle would also restrict views of other areas of the garden, and it considered that such a relationship, where first floor bedroom windows overlook parts of neighbouring gardens, are not unduly uncommon (there are a number of examples on Hillston Close itself) and an objection on such grounds could not be sustained.

1.15 It is therefore considered that the proposal would be unlikely to unduly affect the amenity of 27 Hillston Close in terms of overlooking, dominance, overshadowing and/or poor outlook.

1.16 In terms of the relationship with other neighbouring residential properties, it is considered by virtue of the siting of the extension, it will not unduly affect the amenity of 29 Hillston Close. The plans indicate an additional window in the side elevation facing 29 Hillston Close, however, this is a high level window to allow for natural light. In any case the provision of a window in this case is allowed for without the need for planning permission under the provisions of the GPDO (2008).

1.17 The separation distances associated with the development, in relation to the surrounding properties on Hillston Close far exceed the 20m guidelines set out in the Hartlepool Local Plan (2006) and its considered that the proposal will not have an impact on the amenity of those properties.

#### Character of Street Scene

1.18 The various properties on Hillston Close are widely varied in terms of design, appearance and scale. The extension is set back substantially from the front elevation of the property – 3.9m. Concerns from the objector have indicated that the properties on Hillston Close are separated by garages or have substantial space between and the proposed extension would be out of keeping and bring the property closer with 27 Hillston Close. Hartlepool Local Plan (2006) Supplementary Note 4 states that two-storey extensions can create a continuous built up frontage by removing all space between. In these circumstances the Council will expect extensions to be either set back 1m at first floor or from the shared boundary. In this case, the two-storey extension is set 3.9m back from the front wall of the house, therefore in accordance with the Local Plan guidelines and it is considered that an objection could not be sustained on those grounds. It is considered that the proposal is acceptable in terms of its impact on the character and appearance of the street scene.

#### Character of the Existing Dwelling

1.19 The design and appearance of the extension is in keeping with that of the existing dwelling, with matching materials proposed. Concerns have been raised regarding the proposed extension being disproportionate with the existing dwelling and the application property having been previously

extended. The presence of existing extensions should not preclude proposals for additional extensions, in turn the judgement must be made on the cumulative effect on the existing property and that the proposal would not result in overdevelopment. It is considered in this instant that the proposal would not result in overdevelopment and the extension would appear subservient to the main property. It is considered that the proposal respects the character and detailing of the dwelling and the scale is considered appropriate for a dwelling of such a size.

### Other Issues

1.20 Supplementary Note 4 of the Hartlepool Local Plan (2006) states that a minimum 5m drive length must be retained. In this instance a 5.8m driveway has been retained in accordance with the guidelines. Supplementary Note 2 states that parking requirements are 2 space per household for new developments. In this instance the drive width is 5.2m which allows for the parking of two vehicles. Additionally, the proposed extension incorporates a single garage, providing the property with 3 off-street parking spaces. It is considered therefore that an objection on parking grounds could not be sustained given the provision of 3 spaces.

1.21 In terms of the concerns raised over the use of the driveway, the provision of a driveway in this instance has been established by virtue of the original approval for the estate, and driveway will remain largely unaltered apart from the decrease in its depth. It is therefore considered that the parking of cars on the driveway would be unlikely to unduly affect privacy to neighbouring properties. The parking of cars on the highway cannot be controlled by virtue of this application. The parking of vehicles on land outside of the applicant's ownership is a civil matter relating to potential trespass issues.

1.22 In terms of noise and dust during demolition/construction, any issues which arise as such can be dealt with under the Council's statutory Environmental Health controls.

### **Conclusions**

1.23 With regard to the relevant Hartlepool Local Plan (2006) policies, and with regard to the relevant planning considerations as discussed above, the application is considered acceptable and therefore recommended for approval subject to the conditions set out below.

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

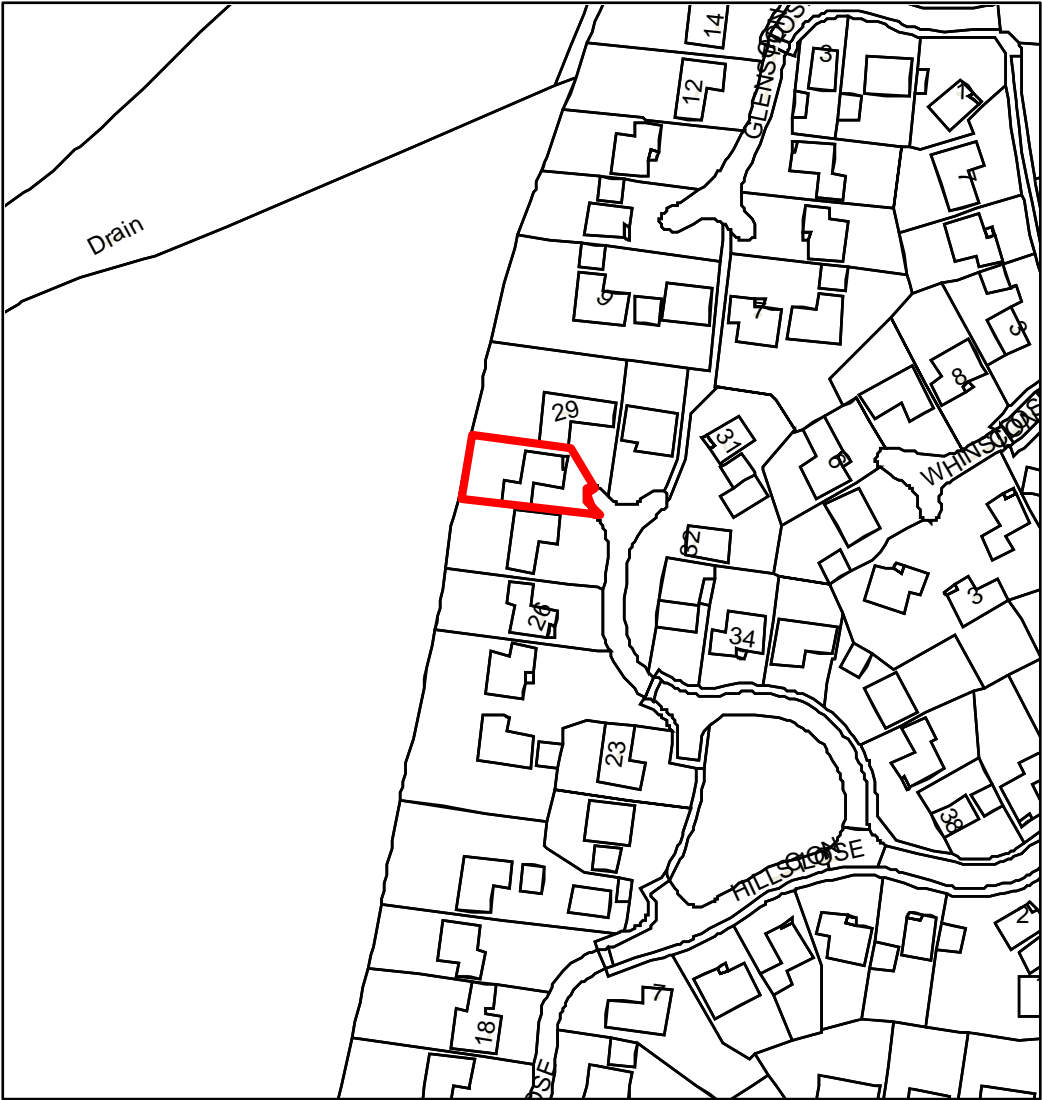
1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. The external materials used for this development shall match those of the existing building(s) unless otherwise agreed in writing with the

Local Planning Authority.

In the interests of visual amenity.

3. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no windows(s) shall be inserted in the elevation of the extension facing 27 Hillston Close without the prior written consent of the Local Planning Authority.  
To prevent overlooking

28 HILLSTON CLOSE



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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>26/8/09</b>
	SCALE <b>1:1250</b>	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2009/0385</b>	REV

**No:** 2  
**Number:** H/2009/0352  
**Applicant:** Adrienne Simcock  
**Agent:** GWK Chartered Architects Charlotte Henry First Floor  
 Cathedral Building Dean Street Newcastle upon Tyne  
 NE1 1PG  
**Date valid:** 01/07/2009  
**Development:** Erection of primary school, nursery and associated works  
 including car parking, drop off facilities, CCTV,  
 landscaping, sports field and multi-use games area  
**Location:** LAND AT JESMOND GARDENS AND CHESTER ROAD  
 HARTLEPOOL HARTLEPOOL

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## Background

2.1 The application was deferred from the 9<sup>th</sup> September Planning Committee to allow further discussions regarding the entrance to the proposed school and highway issues.

## The Application and Site

2.2 The application site is the existing Jesmond Road Primary School sports field. The site is situated at the cross roads between Jesmond Gardens and Chester Road, bounded to the east and south respectively by these roads. Grayfields Recreation Ground sits to the north of the site while Chester Road Allotments lie behind the site to the west.

2.3 The site frontage along Chester Road and at the intersection with Jesmond Road is populated with semi mature trees of a variety of size and species. The residential properties overlooking the site from Jesmond Gardens and Chester Road are traditional two storey semi-detached and terraced houses, typical of the area.

2.4 Historically the site was set out as allotments but these were cleared some 25 years ago. The site area is 1.9 hectares and owing to its occasional use as a playing field is grassed with no distinguishing features.

2.5 The existing Jesmond Road Primary School building is on Percy Street, a few minutes walk away to the south.

2.6 This development has been procured as part of the first phase of the government's national Primary Capital Program (PCP) within Hartlepool which aims to facilitate the rebuilding, remodelling or refurbishment of at least half of all primary schools.

2.7 It is proposed for the site to comprise a single storey educational building with associated drop-off, car parking, hard and soft landscaping, half-sized sports pitch, multi-use games area and service yard.

2.8 The new school is proposed to continue to provide community use and facilities. It is considered by the applicant that the retention of a school in the area will help support local business and encourage first time buyers and young families into the area.

2.9 Workshops were organised by the architects to ensure that the design of the school would be influenced by the pupils and staff at the existing school and governors. Prior to the submission of the application public consultation events were carried out, 1400 invitations were posted and 10 feedback forms were submitted from the people attending the meetings. Plans will be displayed at the meeting.

## Publicity

2.10 The application has been advertised by way of neighbour letters (377), press notice and site notice (2). There were originally 38 letters of no objection 15 letters of objection and 4 letters of comment.

2.11 The application was revised in terms of the proposed access to the school and car parking layout, the application was re-advertised and to date there have been 41 letters of no objection, 4 letters of objection and 2 letters of comment.

The original concerns raised in the objection letters are:

1. problems with traffic on an already busy road
2. the main gate should be moved into either Chester Road or Grayfields
3. parking for residents already only on one side of road and extra traffic would be a nightmare
4. a drop off point for a primary school is not needed as most parents park and wait.
5. entrance and exit of the proposed school
6. extra parking making it a safety issue
7. will cause problems with the flow of traffic
8. drive through drop off will have traffic backing up to the traffic lights
9. evening community use is a concern as kids hanging about the area misbehaving both before and after classes
10. insufficient thought put into the amount of extra traffic that will be using Jesmond Gardens
11. inconvenience to residents opposite for parking etc
12. Ashley Gardens, Oakley Gardens will become a rat-run
13. Jesmond Gardens is a direct road to hospital and used by ambulances and police cars
14. the layout for traffic is an accident waiting to happen
15. kids loitering outside
16. excess exhaust fumes and carbon monoxide levels
17. value of properties will go down in the area
18. the noise levels will increase
19. there is a problem now with parking in Ashley Gardens most nights, you have to park miles away, some people have 2/3 cars/vans
20. do not agree with the mini roundabout
21. objectors business will suffer

22. the entrance/drop off point is too dangerous
23. narrow pavement, Chester Road is considerably wider – much safer for the children
24. parents will wait in the drop off point
25. should flatten the row of allotments behind the site to make a drop off area for the school
26. excess litter
27. already parking issues, an objector has provided a traffic count
28. worry that the copper front will cause glare

Concerns received regarding the revised proposal are:

1. rights of way run across this land, they don't need to be shown on the definitive map to exist, I took this up with Mr. Scaife but he wouldn't accept my application. I used these paths myself for over 25 years.
2. entrance being on Jesmond Gardens
3. Ashley Gardens will be used as a rat run
4. already besieged with parked cars and this will make things worse.
5. extreme volume of traffic on Jesmond Gardens
6. the entrance to the school is too dangerous
7. ambulances come through on a regular basis
8. there is a line of trees proposed on Jesmond Garden which will need pruning, concerns regarding overhanging and appearance.
9. there was a meeting – but very few residents knew about this – why?

The original comments referred to:

1. concern as Jesmond Road and Chester Road are very busy roads, especially at school in and out time. Will any measures be put in place to protect the children
2. do not think drop off point will work
3. traffic backing up
4. concerns regarding residents parking
5. concerns regarding security of the school boundaries
6. concerns regarding congestion of traffic
7. undesirables using drop off point at night
8. major concern safety of ambulance route
9. entrance should be on Chester Road
10. concerns regarding the safety of children
11. parents use Jesmond Road, Ashley Gardens and Chester Road for school runs

Comments received regarding the revised proposal are:

1. apologies for not attending the planning committee
2. hopes that the revised parking and access will be agreeable to everyone.
3. can some of the bricks and foundation stones be preserved i.e. used on a modern project, to remind people of the past. Even sell old bricks to former pupils of the school.

Copy letters B

The period for publicity expires prior to the Planning Committee, should any further representations be received, they will be reported to the Committee accordingly.

## **Consultations**

2.12 The following consultation replies have been received:

**Traffic & Transportation** – Access options have been assessed and, the proposed access is considered to be the safest option. Therefore no objection.

**Community Safety Officer** - Fully supports the proposal however does provide general comments regarding security of the development

**Engineering Consultancy** - No objection subject to a safeguarding regarding contamination issues condition

**Public Protection** - No objection

**Property Services** - No comment

**Community Services** - Welcomes the proposal

**Northumbrian Water** - No objection subject to an appropriate condition

**Association of North East Councils** - The planning application falls below the threshold which ANEC wishes to be consulted therefore no formal response will be submitted.

**One North East** - The planning application falls below the threshold which ONE wishes to be consulted therefore One does not wish to comment.

**Environment Agency** - No objection subject to a condition

**Sport England** - No objection subject to conditions

**Cleveland Police** - Recommended Secured by Design principles are incorporated into the scheme

## **Planning Policy**

2.13 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.

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. (Policy not saved beyond 13 April 2009 - but PPS1 & PPS3 relevant)

PU11: Allocates this land for a replacement school and states that if the school is not required then the site will be retained for outdoor recreational use.

Rec6: Seeks the wider community use of school sports and playing field facilities. Developers contributions may be sought in this respect.

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**

2.14 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan outlined above and in particular the impact of the proposals upon neighbouring properties and its appearance in the streetscene in general. Highway safety issues also need to be considered.

### Policy

2.15 The application site was allocated in the adopted Hartlepool Local Plan 2006 and in the previous 1994 Hartlepool Local Plan for the site to locate a replacement school for Jesmond Road Primary School. It is considered that the use of this land for a school is therefore acceptable in principle.

### Effect on the neighbouring residential properties and the surrounding area

2.16 The proposed school building is modern single storey with some double height spaces which are located towards the rear of the site adjacent the allotments/Grayfields. The double height spaces denote the hall and 'heart' of the school. The hall is the tallest element of the building but is less than 8 metres in height. The public façade is 5.6m high which then reduces in scale down to 3.1 metres within the courtyard in order to reinforce the more domestic scale of the pupil domain.

2.17 This smaller scale is evident in the courtyard which, as the entrance point for pupils has more domestic proportions and feel. Glazed folding, sliding doors connect the class bases to the external environment, where a 2.4 metre high canopy will create sheltered external spaces.

2.18 The building has a flat roof, reducing the overall height of the scheme. The flat roof is punctuated by light and ventilation pods which sit centrally over the class bases, bringing light into the centre of the plan.

2.19 The adjacent properties are two storey dwellings with pitched roofs and are some distance from the proposed building, in excess of the minimum separation distance outlined in the Local Plan. It is considered that the scale of the development is appropriate for the area.

2.20 The external appearance of the school is unique, designed to incorporate planted or living façades to appear as a continuation of the landscape. The main planted façades are on the 'public' elevations, making the school recognisable and giving it a unique identity, while offering an interesting outlook for the dwellings opposite. The façades will be planted to offer seasonal variation in colour and flowering and smaller areas of planted façade have been incorporated within the pupil areas to be used as educational tools. Brick has been chosen as the other main element which denotes the entrances and the ancillary spaces such as the kitchen and administration areas and act as a backdrop for the living façades.

2.21 In terms of any potential noise arising from the proposed school, the Council's Public Protection team have not raised any objection to the scheme.

#### Effects on the Allotments

2.22 As part of the site layout the Council have gifted an allotment adjacent to the school site in the north west corner. In return, part of the site has been used to form a pedestrian access route to the allotments which runs along the western boundary. This access from Chester Road will be separately secured and gated.

2.23 The Assistant Director of Community Services has assessed the scheme and has stated that the use of an allotment will allow for an integrated approach between the school and a healthy food/gardening project and that opportunity to develop closer links with the allotment association regarding help and guidance are of obvious merit.

2.24 As part of this scheme it is proposed to reintroduce the pathway from Chester Road into the allotment estate bordering the west boundary of the school, this will assist in giving the allotment holders a more convenient access point. Additional benefit should arise from a more controlled environment which will overcome fly tipping which currently takes place on the existing 'dead end' allotment footpaths.

#### Landscaping & Boundaries

2.25 The front of the school is proposed to be open, with secure boundaries being formed by the school itself. The underlying principle for the design of the new

school's public face is based on creating an open parkland type setting, with open footways leading to individual entrance points for Foundation, Key Stages 1 and 2, and the main reception respectively. These access points enter the site at the junction of Jesmond Gardens and Chatham Road and at the corner of Jesmond Gardens and Chester Road. This means that the vehicle drop off point, included along the central location of Jesmond Gardens, is kept separated from the main pedestrian accesses, improving pedestrian safety and ensuring that children using the drop-off area have a safe, direct route to school.

2.26 Given the intended openness of the site, it is proposed that the security fencing is set back from the frontage area. The main eastern frontage of the site (with Jesmond Gardens) includes the drop-off point and the pedestrian access points. This boundary will incorporate a low park-type enclosure (1.5m in height to top of fence) in order to restrict vehicle access into the site after hours.

2.27 Both the car park and the drop-off point will be gated and restricted to school operational hours. The drop off area will be further screened through the use of ornamental street trees with the potential for a low hedge to also be incorporated.

2.28 To the north of the school building a 3.0m high security fence will commence from the northern boundary with Grayfields Recreation Ground, running behind the staff and visitor car park, and tie into the building. The Grayfields boundary will utilise the existing security fencing. The internal perimeter with Grayfields is bounded by the car park and the habitat area, which is secured behind the 3.0m fence line. Additional tree planting will soften the boundary with Grayfields.

2.29 On the southern side of the school, the security fence will run from the Key Stages 1 and 2 entrance and then along the top of an embankment to tie into the Chester Road southern boundary. It is proposed that the combined height of the embankment and security fencing will be approximately 3.0m. The internal gradient of this embankment will then provide the opportunity for pupils to use the grassed slope as an informal seating/viewing area for the sports pitch. The southern boundary with Chester Road will comprise a 3.0m security fence set behind the well-established tree planting currently present. It is anticipated that this will effectively ensure that Chester Road residents will substantially retain their existing tree-lined views.

2.30 The western boundary with the allotment gardens will have a 3.0m security fence running parallel to a new pedestrian lane accessible only to allotment users (it is intended that this will be a gated key-holders' access on Chester Road, as per the main allotment access points). This area will provide a buffer of shrub planting between the school grounds and the allotment access lane. Shrubs in this area of planting will be a mix of native stock and low maintenance specimens. The school building will essentially provide the central security boundary between the security fencing to the north and the embankment/ fencing to the south. It is intended that these building elevations will provide a secure frontage with the principles of Secure by Design applied.

2.31 In order to accommodate the development approximately 65 trees currently located along the Jesmond Gardens frontage and the corner of Chester Road will

need to be removed. From this total, the majority of specimens are scrubby growth, with only 15 of any significant size. It is proposed to incorporate significant tree planting within the school site as a form of compensation.

The scheme has been assessed by the Council's Arboricultural Officer who considers that in general the landscaping proposals should provide for an overall enhancement of the visual amenity of the site.

### Highway Issues

2.32 A revised scheme for access and car parking layout was submitted prior to the September Planning Committee which has been re-advertised. The revised scheme details an access into the proposed school south of the previously proposed roundabout, which was detailed on the original plans.

### **Access**

2.33 Concerns were raised by Members at the September Planning Committee in relation to the access and general highways issues. The Council's Traffic & Transportation Team have reassessed the scheme to consider alternative access arrangements. All have been subject to safety audits. Five accesses have been considered. These comprise:

#### 1) Roundabout

There is insufficient space to physically accommodate the necessary vehicle deflection for a mini-roundabout. This would allow drivers to travel through at speed, increasing the likelihood of collisions.

Creating a 4<sup>th</sup> leg at the Jesmond Gardens/ Chatham Road junction will lead to increased vehicle/ pedestrian movements, and therefore conflicts, again increasing the likelihood of collisions.

Technical Design Note TD 54/07 also states that mini-roundabouts should not be used:-

- At direct accesses.
- At junctions where traffic flows differ widely.
- At junctions where the daily flow on any leg would be below 500 vehicles.
- On routes to schools.

#### 2) T junction/ drop off lay-by

This option creates additional pedestrian safety issues for children entering the site from the north, as the new footpath link would lead them to cross the car park entrance road close to the drop off lay-by exit.

The junction of the drop off lay-by and the new access road is also close to Jesmond Gardens, thereby restricting the size of vehicle that can use the drop off lay-by (coaches, etc).

### 3) Crossroads

Provision of a 4<sup>th</sup> leg at the Jesmond Gardens/ Chatham Road junction will lead to increased vehicle/ pedestrian movements, and therefore conflicts, increasing the likelihood of collisions.

The greater the number of movements that can be kept separate from the existing junction, the safer the overall road environment will be.

### 4) Traffic Signals

Light traffic flows on Chatham Road in comparison with Jesmond Gardens, and very light traffic flows from the school car park, will mean that Jesmond Gardens would display a green light for the vast majority of the day.

Driver behaviour has shown that motorists become accustomed to rarely being stopped, and consequently, on occasion, can ignore the presence of the signals, giving increased risk of collisions.

Traffic signals are also designed for locations where delays are experienced on the side roads. No significant delays have been encountered for vehicles leaving Chatham Road, and the light traffic flows from the school car park would also not be expected to lead to delays.

The signals operational effectiveness would be reduced due to the need for the stop lines to be set well back from the junction, in order to cater for turning buses to and from Chatham Road.

Double yellow lines on each approach, to protect the signals detector loops, would also be necessary in order to avoid the signals effectiveness being reduced further. This would be likely to be unpopular with residents, and also the corner shop.

### 5) T junction

This option provides a separate access to the school, away from the junction with Chatham Road, and therefore minimises the potential conflict, and risk of collisions, between all road users.

Pedestrians entering the school from the north also cross the new access road further away from the junction with Jesmond Gardens, again minimising potential vehicle/ pedestrian conflicts.

2.34 Traffic & Transportation have assessed the scheme and consider option 5 to be the most suitable & safest access in this instance. The developer however still needs to demonstrate that service vehicles can access the site given the presence of a road hump and gate. It is however considered that this matter is resolvable and can be controlled by a condition.

2.35 The vehicular drop-off area for pupils proposed to be located parallel to Jesmond Road, was moved slightly north away from the Jesmond Gardens/Chester Road traffic lights on the revised plans. This offers direct, safe access for children, straight into the school curtilage. The drop-off proposed is one-way meaning that children would be able to leave cars on the passenger side only, and go straight into the secure congregation/playground area and from there directly into their classbases. The entrance to Foundation is located adjacent to the drop-off as nursery children come to the school twice a day and need to be taken directly to their secure area. The drop-off area can also accommodate bus or coach pickup. Traffic Regulation orders will be required on Jesmond Gardens to control parking; this can be controlled via planning condition.

### ***Car Parking***

2.36 The staff and visitor car parking layout has been revised to reflect the now proposed access. It is still proposed to be located to the north of the site, remote from sports or teaching areas in order to reduce the dominance of vehicles within the site. Paths from the car park lead directly to the main entrance, separating visitor movements from pupil areas.

2.37 The car park will to accommodates 40 car parking spaces; more than the 28 space minimum requirement. Although the car park is primarily for staff and visitors it can also be used by parents with disabled children or parents who are themselves disabled. It has been agreed with the Assistant Director of Community Services that Grayfields car park could be utilised by parents during drop-off/pick-up times.

2.38 The service area is located beyond the staff and visitor car parking area, again confining vehicular movement to one area. Out of hours, the service turning-area could offer additional parking for school / community events.

### ***Travel Plan***

2.39 Jesmond Primary School has produced a travel plan (September 2009) which specifies measures for the school to try and reduce the impact of traffic on the surrounding area of the new school. This includes encouraging parents to use Grayfields parking facility and to use the drop off lay by appropriately. The school also proposes to explore walking buses.

2.40 Cycle parking is proposed which it is anticipated will encourage cycling to school, the final details of which can be controlled by condition. It is anticipated that the travel plan and cycle parking provision will aid in reducing vehicular trips to the school.

### ***General***

2.41 In terms of the amount of traffic which could be generated by this development traffic surveys have been carried out by the Council's Traffic & Transportation Team on Jesmond Road which indicated a peak hour morning total of 664 vehicles. The survey was carried out on Tuesday 14th July 2009 between 8.00am - 9.pm. This compares with the survey carried out by the residents which showed a half hour total of 364 vehicles. This traffic flow is considered moderate, the presence of the school would undoubtedly increase traffic flow and pedestrian usage. It is however not

expected that the road would be over capacity or seriously impact on the road safety of the area.

2.42 The Head of Traffic and Transportation has no objection to locating the school on this site, the access and parking proposed are considered acceptable.

#### Secured by design

2.43 Cleveland Police have provided comments regarding security of the site. It is anticipated that the school will adopt secured by design principles within the development as specified above however this can be controlled by conditions. The Council's Community Safety Officer fully supports the proposal and provides general comments regarding security of the development.

2.44 It should be noted that CCTV is to be incorporated into the scheme, the final number and details of which can be controlled by condition.

#### Energy Efficiency

2.45 The Primary Capital Programme's Primary Strategy for Change outlines that all new build projects must achieve at least a 'very good' BREEAM rating and a 60% reduction in Carbon emissions.

2.46 It is considered that the energy efficiency proposals will help to make the building sustainable in the future minimising the levels of non-renewable energy needed in the operation of the building.

#### Other issues

2.47 It is proposed to incorporate a half-sized junior playing pitch and a full-size Multi Use Games Area (MUGA). It is anticipated that the school will be able to use full-size pitches and facilities at the adjacent Grayfields Recreation Grounds. The MUGA will not be floodlit. Sport England have assessed the proposals and do not object, however they would like to see the construction details for both the proposed playing pitch and MUG. This can be controlled by condition.

2.48 An objector raises the issue of devaluation of houses in the area; this is not a material planning consideration.

2.49 An objector has raised an issue that there is a Public Right of Way (PROW) running over this site which links to the allotment. It has been clarified by the Council's Countryside Access Officer that the objector has applied twice for a PROW to be defined on this land. However both applications did not have the evidence base to support them.

**RECOMMENDATION** –Approve subject to the following planning 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. Details of all external finishing materials, including the hereby approved living wall shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
3. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 30th June and 1st September 2009, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt.
4. 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. Thereafter the scheme shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of visual amenity.
5. 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.
6. Final details of the drop off lay by, including one-way signage and white lining 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 prior to the operation of the school and retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of highway safety.
7. A scheme to demonstrate that service vehicles can access the site and manoeuvre within the site safely shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of highway safety.
8. A scheme for parking restrictions on Jesmond Gardens including a programme of works shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details at the developer's expense, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of highway safety.
9. A joint inspection shall be carried out prior to and after works have been completed between the developer and the Highways Authority to review the condition of the highway.  
In the interests of highway safety.
10. A scheme detailing the design, location and final number of secured cycle parking places including a programme of works 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.  
In the interest of sustainable transport and visual amenity.

11. Final details of the bin store 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.  
In the interests of visual amenity.
12. The development hereby approved shall incorporate 'secured by design' principles. Details of proposed security measures which shall include roller shutters 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 interests of crime prevention.
13. Final details including number and locations of the CCTV cameras 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.  
In the interests of crime prevention and in the interests of privacy.
14. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Moorhead Sutton & Lang Ltd., ref: 3799M, dated June 2009, and the following mitigation measures detailed within the FRA:  
Limiting the surface water run-off generated by the 1 in 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.  
To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
15. 1. Site Characterisation  
The development hereby permitted shall not be commenced until an investigation and risk assessment, in addition to any assessment provided with the planning application, is 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:  
a) human health,  
b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,  
c) adjoining land,  
d) groundwaters and surface waters,  
e) ecological systems,  
f) archeological sites and ancient monuments;  
(iii) an appraisal of remedial options, and proposal of the preferred option(s).  
This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.  
2. Submission of Remediation Scheme

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

### 3. Implementation of Approved Remediation Scheme

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

### 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

### 5. Long Term Monitoring and Maintenance

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

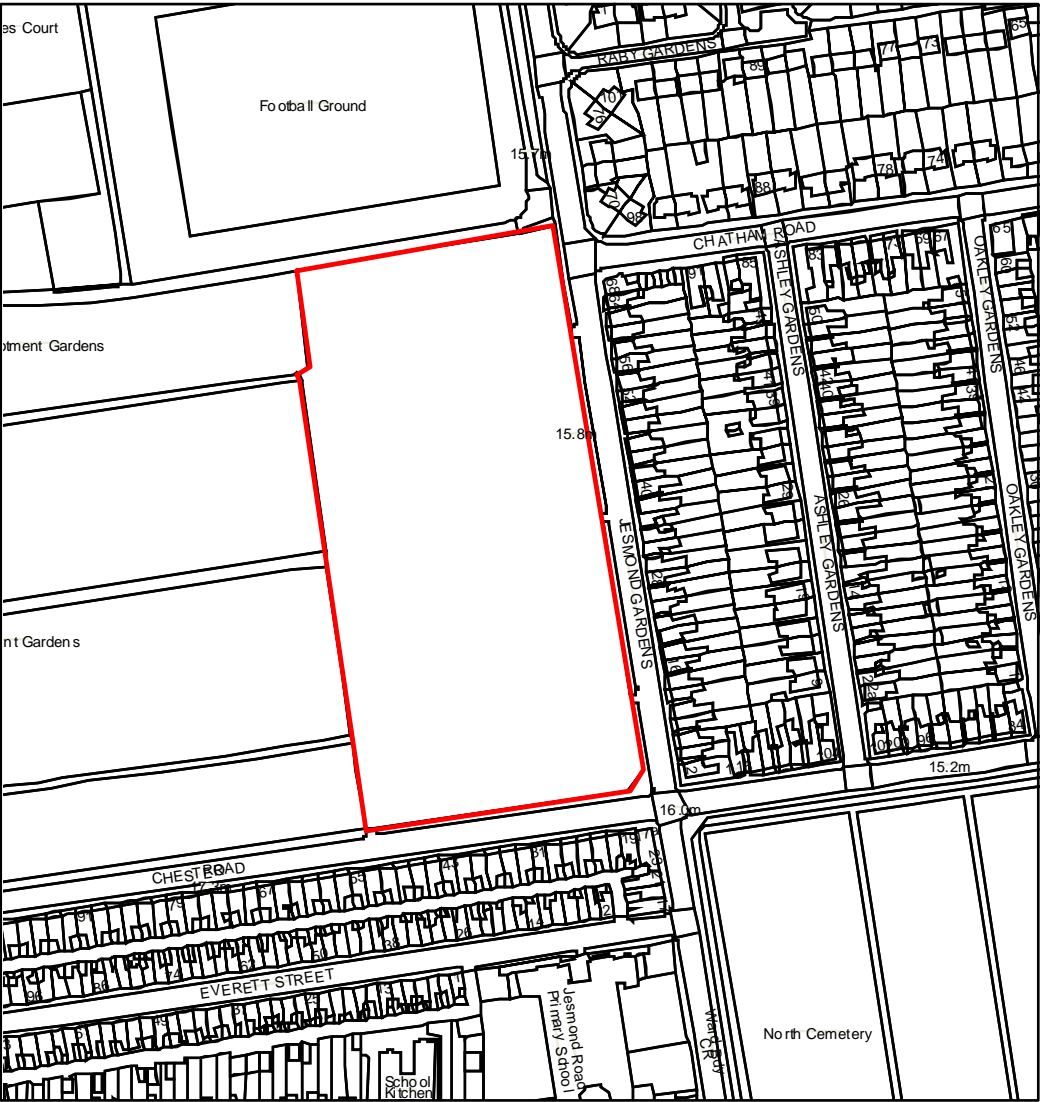
Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

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

16. 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 take place in accordance with the approved details.  
To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25 "Development and Flood Risk" and complies with the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2000.
17. Final details of the construction of the mini-soccer pitch (which shall comply with Sport England Design Guidance Notes 'Natural Turf for Sport') shall be submitted to and approved in writing by the Local Planning Authority. The mini-soccer pitch shall be constructed in accordance with the approved design and layout details, unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the site is developed in a satisfactory manner.
18. Final details of the construction, surfacing and means of enclosure of the proposed MUGA shall be submitted to and approved in writing by the Local Planning Authority. The MUGA shall be constructed in accordance with the approved design and layout details, unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the site is developed in a satisfactory manner.
19. 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.
20. Prior to the commencement of development a temporary fence shall be erected within the site at the limit of the crown spread of the retained trees adjacent to Chester Road, in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The fence shall be retained in the approved position during construction works on the development, unless otherwise agreed in writing by the Local Planning Authority.  
In order to ensure the retained trees are protected from accidental damage during construction works.
21. If within a period of five years from the date of the planting of any tree that tree, or any tree planted as a replacement for it, is removed, uprooted, destroyed, dies, or becomes in the opinion of the Local Planning Authority seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.  
In the interests of visual amenity.
22. A scheme to incorporate sustainable energy systems 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

JESMOND ROAD 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>26/8/09</b>
	SCALE <b>1:2000</b>	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2009/0352</b>	REV

**No:** 3  
**Number:** H/2009/0390  
**Applicant:** Chase Property Developments  
**Agent:** Savills Mr T Adey Fountain Court 68 Fountain Street  
 Manchester M2 2FE  
**Date valid:** 27/07/2009  
**Development:** Application to remove planning conditions on planning permission references EZ2/3/OUT/519/85, H/FUL/0619/91 and H/2005/5921 relating to the amount of floorspace that can be provided, unit size and the range of goods permitted to be sold  
**Location:** TEESBAY RETAIL PARK BRENDA ROAD  
 HARTLEPOOL

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## The Application and Site

3.1 The application site is an existing retail park located on the west side of Hartlepool close to the junction of the A689 and Brenda Road. It currently accommodates some 12,821 square metres of retail floorspace and a 2498 square metre bowling facility. 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 and 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.

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

3.3 The site already benefits from extant planning permissions some of which have been implemented and which are subject to various restrictive conditions. The application seeks planning permission to remove/vary these various conditions, in particular to extend the permitted floor space allowed within planning approval H/2005/5921 by a further 4,537 square metres to 11,017 square metres (restricted by condition 4). 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.

3.4 Instead the applicant proposes six new planning conditions. One would limit floor space for the sale of food to 8,851sq metres other than ancillary café, confectionery, hot snacks or meals or any other food which may be agreed by the Local Planning Authority. A further proposed condition reserves 2,498 square metres of floorspace for D2 leisure floorspace. This relates to the existing Bowling

facility. A third proposed condition seeks to restrict 6,480 square metres or twenty percent of the gross floorspace whichever is greater to the sale of DIY, home improvement goods, electrical and gas goods, garden materials and goods, furniture/soft furnishings and floor coverings and automotive and cycle products. A fourth proposed condition restricts the total amount of retail floorspace to 23,838 sq m. A fifth proposed condition restricts the minimum unit size to 465 sq m with the exception of units 18,19 and 20. A sixth proposed condition will require a minimum of 6480 sqm of floorspace to consist of units of not less than 929 square metres.

3.5 The revised indicative site layout shows a 11,017 square metre extension to the existing retail floorspace. 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. Six units 11 to 16 will be provided in the south east corner of the estate effectively closing this corner. Unit 18, a stand-alone unit, will be provided to the north of the existing Halfords Unit. Units 19 & 20 will be provided in the centre of the site on the site of the former car wash. 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.

3.6 In support of the application the applicant has submitted a retail statement, a flood Risk Assessment, a design and access statement, a transport assessment and an employment and regeneration statement.

3.7 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.

3.8 Members will note that the application now before them is very similar to an application which was refused in June 2009. In respect to that application the main changes are.

- the applicant is proposing an amendment to one of the proposed conditions. The amendment increases the minimum amount of floorspace restricted to the sale of DIY, home improvement goods, electrical and gas goods, garden materials and goods, furniture/soft furnishings and floor coverings and automotive and cycle products, by 1130 sq m to 6,480 sq m.
- the applicant is proposing an additional condition which will require a minimum of 6480 sqm of floorspace to consist of units of not less than 929 square metres.

## **Relevant Planning History**

3.9 The planning history of the site is complex.

3.10 In summary, outline permission was originally granted for a retail development within the Enterprise Zone regime of the 1980's. Thereafter numerous applications for revisions have sought to stimulate interest from retail operators to locate at the site but have repeatedly raised issues about potential impact on the town centre's viability and vitality.

3.11 Outline planning permission was original 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 confectionery, 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 on 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 ).

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

3.13 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 .

3.14 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).

3.15 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).

3.16 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).

3.17 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.

3.18 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. The permission expired recently and the applicant undertook works to seek to implement the permission. However a condition requiring the pre-commencement approval of materials does not appear to have been complied with and it is not clear how extensive the works that were undertaken were before the application actually expired. It is uncertain at this time therefore whether the permission was lawfully implemented. The comments of the applicant on this matter are awaited.

3.19 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 stationery, 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. 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.

3.20 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. If permission H/FUL/0101/04 has not been lawfully implemented however these units could not be used for the sale of food.

3.21 In June 2009 a similar application to allow additional floorspace, to vary the size of units and to extend the range of goods that can be sold (H/2008/0495) was refused on the grounds that it was considered that the applicant had failed to demonstrate need, failed to demonstrate compliance with the sequential test, failed to provide sufficient information to analyse the impact on the town centre and so to demonstrate that the development would not have a detrimental impact on the town centre, and on the grounds that the development would have an adverse impact on retailer and investor confidence in the town centre. (H/2008/0495).

## Recent Legal Advice

3.22 In considering the previous refused application (H/2008/0495) legal advice was sought on a number of related matters.

### i) The scope of the application:

Questions were raised in relation to the previous refused application 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 was that the application to vary the conditions was appropriate.

### ii) The position of the legal agreements.

Questions have 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.

### iii) The scope to add mezzanines to the existing units.

The applicant maintains that under existing permitted development rights successive mezzanines of up to 200 square metres can be added to the existing units and has provided information to support his case. This proposition rests on the fact that the controlling Order is loosely worded, a view expressed in an explanatory memorandum prepared by the Office of the Deputy Prime Minister (ODPM) and a decision in another planning authority. Our current legal advice however is that the legal position is not clear and that the view expressed in the explanatory memorandum would appear to run counter to the spirit of the relevant legislation introduced to control mezzanines. It is arguable that successive mezzanines could be added, if completed as separate operations, however until the proposition is tested in the courts, or on appeal, this uncertainty is likely to remain.

### iv) The scope to subdivide existing units

The applicant maintains that he could subdivide the existing retail units (i.e. those already on the site) without requiring planning permission. The legal advice is that provided the works were internal, and remained in retail use, planning permission would not be required for their subdivision. However, any external alterations, i.e. new doors, windows, shop fronts, would require planning permission and conditions could be imposed to prevent these alterations serving subdivided units.

## Summary of Planning History

3.23 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.

3.24 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 if planning permission (H/FUL/0104/04) has been lawfully 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.

## Related Applications

3.25 Shortly before submitting the current application the applicant submitted three applications for Lawful Development Certificates (LDC). An LDC application is a means by which an applicant can seek to formally establish whether an existing or proposed development is lawful. In this case the applicant is seeking to establish that the various works proposed, mezzanines and subdivisions, would not require planning permission.

3.26 H/2009/0357 seeks to establish that the installation of 2 sections of mezzanine floorspace each totalling 199 sq m to be built in separate stages in one of the existing Teesbay retail units would be lawful without the need for planning permission.

3.27 H/2009/0358 seeks to establish that various of the Teesbay retail units could be subdivided without the need for planning permission.

3.28 H/2009/0359 seeks to establish that the installation of a 199 sq m mezzanine in one of the existing Teesbay retail units would be lawful without the need for planning permission.

3.29 Legal advice has been sought in relation to these applications. It is hoped that it will be available before the meeting.

## Publicity

3.30 The application has been advertised by site notice, neighbour notifications(14) and in the press. The time period for representations has expired. A single letter of objection was received from PD Ports. The writers raise the following issues.

- a) PD Ports has land currently available at Victoria harbour for retailing.
- b) 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.

- c) They may also act as a catalyst for wider regeneration and employment opportunities.
- d) The retail assessment does not take these sites into account.
- e) The proposal would create a competing out of town retail locality which would undermine confidence in the Middleton Road/Marina Way locality. This would prejudice wider regeneration proposals and have an adverse impact on retailing both within and on the edge of the town centre

## **Copy letters D**

## **Consultations**

3.31 The following consultation responses have been received:

**Head of Public Protection** - No objection.

**Northumbrian Water** - No objection.

**Economic Development** - whilst welcoming any private sector investment and associated job creation it is important in this instance that the proposals do not impinge on town centre and local shopping areas and that any range of goods permitted must be in accordance with out of town shopping policy.

**Traffic & Transportation** – No objection.

**Tees Valley JSU** – Comments awaited.

**Environment Agency** – No objections.

**Engineering Consultancy** – Comments awaited.

**Natural England** – No comment.

**North East Assembly** – Under section 38 (3) of the Planning and Compulsory Purchase Act (2004), the Regional Spatial Strategy (RSS) (July 2008) is part of the statutory development plan. Under the plan-led system, this means that the determination of planning applications will be made in accordance with the RSS and other development plan documents, unless material considerations indicate otherwise. The North East Assembly (NEA) was previously consulted on the original planning application in November 2008 (H/2008/0495) (Annex A). The NEA considered the planning application to be in general conformity with the RSS, 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 the viability of the town centre will not be comprised as a result of the development. This application was refused planning permission in June 2009.

The resubmission has been amended as follows:

- additional retail information provided in the retail statement;

- the minimum amount of 'bulky goods' floorspace proposed has been increased by 1,130sqm to 6,480sqm;
- inclusion of a set of lawful development certificate applications; and
- proposals to deliver a green travel plan, an improved cycle link and a local labour obligation. The North East Planning Body (NEPB) does not consider it necessary to make detailed representations on the resubmitted application, as the principle of the development represents a continuation of the original application. Therefore, representations made in our previous response still apply.

However, the supporting statement indicates that a unilateral undertaking is proposed to deliver a green travel plan and improved cycle links. This is consistent with the objectives of RSS policies 2, 7 and 54, which seek to reduce the impact of travel demand by promoting public transport, travel plans and cycling. The local authority must be fully satisfied that the development in this location minimises the impact of travel demand and encourages the use of sustainable forms of transport.

**One North East** - The application seeks to broaden the range of goods permitted to be sold in the Retail Park and, through implementing a comprehensive upgrade of the entire Park, provide premises across a range of unit sizes. I understand that this application follows the refusal of planning permission by the Borough Council in June 2009 (H/2008/0495). The reasons for refusal related to the Local Planning Authority's (LPA) concerns in relating to:

- failure to demonstrate quantitative or qualitative need for removal of restrictions imposed by previous permissions;
- proposal not in compliance with sequential test requirements set out in Council's policies or PPS6 guidance;
- insufficient information to analyse the impact of the development on the town centre; and
- application likely to have an adverse impact on investor and retailer confidence in the town centre.

ONE commented on that application, acknowledging the LPA's concerns relating to the potential impact of the proposed retail development of this site on the town centre. The Agency urged the LPA to be satisfied that any revisions to the restrictions imposed by the original permission for the Park were in accordance with current policy and guidance and to establish as far as possible that the proposed changes would not result in a detrimental impact upon the vitality and viability of retail operators within the town centre. Clearly the LPA will need to be satisfied that this current resubmission adequately addresses those concerns which resulted in refusal of planning permission in June 2009.

Having considered the resubmitted details of the current application, ONE's comments relating to that previous application submitted in 2008 still apply. Subject to the above national and local plan policy and all environmental issues of this latest application being resolved to the satisfaction of the LPA, ONE does not object to the removal of restrictions imposed by previous permissions.

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, as before 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** – At this stage I would not want to pass comment, however if and when any detailed proposals are submitted I would welcome the opportunity to comment.

**Tees Valley Regeneration** – Comments awaited.

## Planning Policy

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

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

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

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

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.

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.

### **Hartlepool Retail Study**

3.33 The 2009 Hartlepool Retail Study undertaken by Drivers Jonas on behalf of Hartlepool Borough Council was completed in August 2009. The Study is the subject of a separate report also on this agenda. It concludes:

- There is a higher than average number of vacant units in the Town Centre.
- There is insufficient expenditure in order to justify further retail floorspace.
- Extreme caution should be exercised in permitting new floorspace in locations outside the Town Centre and Local Centres within Hartlepool.

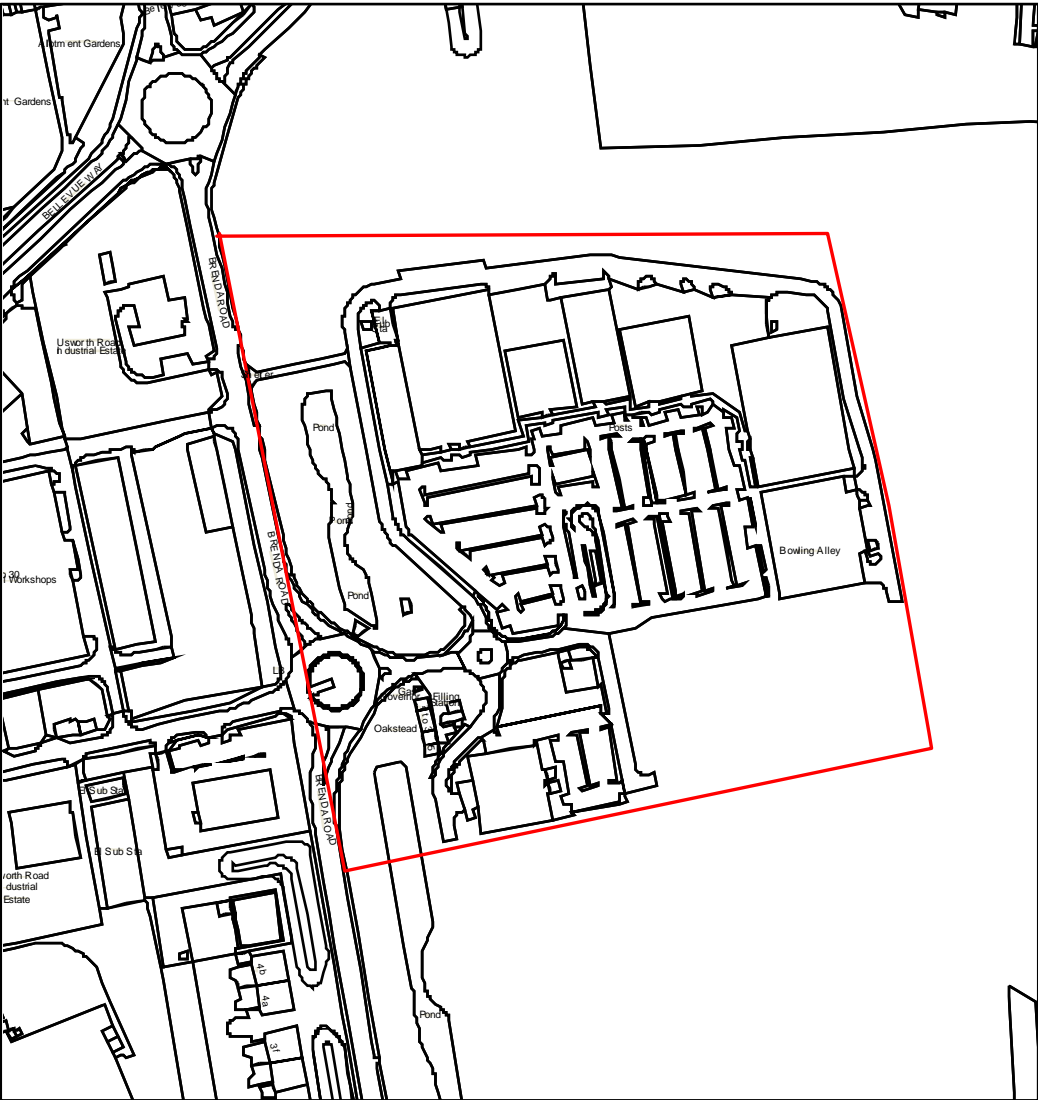
### **Planning Considerations**

3.34 The main planning considerations are considered to be 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.

3.35 A number of consultation responses are outstanding including the views of the Council's own retail consultant. An update report will therefore follow.

**RECOMMENDATION – UPDATE** report to follow

**TEESBAY RETAIL PARK**



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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>24/09/2009</b>
	SCALE <b>1:3000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2009/0390</b>	REV

**No:** 4  
**Number:** H/2009/0493  
**Applicant:** Mr K JOHNSON CARMEL ROAD SOUTH DARLINGTON  
DL3 8DW  
**Agent:** Jackson Plan Mr Ted Jackson 7 Amble Close  
HARTLEPOOL TS26 0EP  
**Date valid:** 08/09/2009  
**Development:** CHANGE OF USE FROM OFFICES (A2) TO HOT FOOD  
TAKEAWAY (A5)  
**Location:** 88 YORK ROAD HARTLEPOOL

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### The Application and Site

4.1 The application site is a vacant ground floor office located on the east side of York Road close to its junction with Victoria Road. Above the office is a flat. Adjoining to the north is a shop with flats above and beyond a vacant amusement arcade. Adjoining to the south is an Estate Agency with the offices of a training agency above. Also in the adjoining block to the south east is a bridal shop and hairdressers which front onto Victoria Road. To the rear is an alleyway beyond which are several public houses. To the west is York Road on the opposite side of which are the offices of an insurance company. To the north west are two existing takeaways.

4.2 It is proposed to change the use of the premises from an office to a hot food takeaway. The applicant has stated that if planning permission is obtained the occupation of the first floor flat will be restricted to use by the tenants/owners of the hot food takeaway.

### Recent Planning History

4.3 In September 2004 an application to change the use of the application site and the adjacent shop (88 York Road) to a public house (ground floor) and restaurant (first floor), and to add a new ground floor frontage, (H/FUL/0547/04) was refused by Committee against officer recommendation for the following reasons.

1. It is considered that the proposed development will result in increased vehicular activity, including taxis dropping off and picking up customers, close to a traffic light controlled junction on a major approach road and bus route to the town centre, to the detriment of highway safety and the free flow of traffic contrary to policy Gen I of the adopted Hartlepool Local Plan and policy GEP I of the Revised Deposit Hartlepool Local Plan 2003.

2. It is considered that the proposed development will result in increased pedestrian activity around the site to the detriment of the amenities of the occupiers of nearby residential accommodation by reason of noise, disturbance and anti social behaviour contrary to policy GenI of the adopted Hartlepool Local Plan and policy GEPI of the revised deposit Hartlepool Local Plan 2003.

4.4 The appeal was dismissed (decision letter attached). However, whilst supporting the reason for the refusal (2) relating to the living conditions of the neighbours, the Inspector did not support the highway reason for refusal (1) and in fact awarded costs to the applicant against the Council.

## **Publicity**

4.5 The application has been advertised by site notice and neighbour notification (17). The time period for representations expires on 12<sup>th</sup> October 2009 shortly after the meeting.

4.6 At the time of writing one objection had been received, this states,

“I feel we have sufficient fast food take-aways in the area, I am constantly having to clear up food rubbish which gathers in my door way. I am concerned of about the security of my business if there is more people gathered around my premises late at night.”

Copy letters F

## **Consultation Responses**

4.8 The following consultation replies have been received:

**Traffic & Transportation** - It is considered that this development will result in increased vehicular activity, including customers parking on existing parking restrictions on York Road close to the signalised junction with Victoria Road. Parking in this location would have a detrimental effect on the efficiency and safety of this junction and would restrict the free flow of traffic contrary to local plan policies. However it would be difficult to argue against as it is in the town centre and on the main bus priority route within the town. If the development goes ahead, the following conditions must apply: The existing Traffic Regulation Order on York Road needs to be amended to 'No waiting, loading and unloading at any time', as businesses are able to be serviced at the rear. Guardrails should also be provided along this part of York Road to deter taxis and cars to pick up and drop off. TRO and guard railing to be at the expense of the applicant. They must be in place before the premises are open for business.

**Public Protection** - No objection subject to an extract ventilation condition.

**Northumbrian Water** - No objection

## **Planning Policy**

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

Com12: States that proposals for food and drink developments will only be permitted subject to consideration of the effect on amenity, highway safety and character, appearance and function of the surrounding area and that hot food takeaways will

not be permitted adjoining residential properties. The policy also outlines measures which may be required to protect the amenity of the area.

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

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

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

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.

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. See system

## **Planning Considerations**

4.10 The main planning considerations are policy, impact on the amenity of neighbours and highways.

4.11 As at the time of writing a substantial period of the time allowed for representations is still outstanding an update report will follow.

**RECOMMENDATION** – Update to follow



## Appeal Decision

Hearing and site visit held on 31 August 2005

by **Anthony J Wilson BA(Hons) MA DipLA MRTPI**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate  
4/09 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

Date

**04 OCT 2005**

**Appeal Ref: APP/H0724/A/04/1165129**  
**86/88 York Road, Hartlepool, TS26 8AB**

- 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 K Johnson against the decision of Hartlepool Borough Council.
- The application Ref: H/FUL/0547/04, dated 23 June 2004, was refused by notice dated 16 September 2004.
- The development proposed is described as 'the change of use from use classes A1, A2 and C3 to use class A3 – public house on ground floor, restaurant on first floor and storage at second floor, and new ground floor frontage'.

**Summary of Decision: The appeal is dismissed.**

### Procedural Matters

1. Since the determination of the application, the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 has come into effect, which has created new use classes relating to food and drink uses. It was agreed with the main parties that the application at appeal now relates to an A4 public house use on the ground floor and an A3 restaurant use on the first floor and that the description of the application should be amended as follows to reflect the new use classes:- "The change of use from use classes A1, A2 and C3 to use class A4 - a public house on the ground floor; use class A3 - a restaurant on the first floor; storage on the second floor; and a new ground floor frontage".
2. Clearly, the development plan policies predate the change in the use classes and continue to refer to A3 uses. For clarification, references made to class A3 in the policy documents referred to in my decision would cover the 3 new classes of A3, A4 and A5.
3. At the hearing, an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

### Main Issues

4. I consider that the main issues are:
  - a) the effect of the proposals on the living conditions of the occupiers of residential properties in the locality, with particular regard to any impact from noise and other disturbance; and
  - b) the impact of the proposed development on highway safety and the free flow of traffic in York Road.

Appeal Decision APP/H0724/A/04/1165129

### Planning Policy

5. A significant number of national, regional and strategic development plan policies have been referred to in the submissions by the main parties. However, it was agreed at the hearing that whilst the thrust of these strategic documents encourage a mix of uses in town centre locations, including food and drink premises, it is the policies of the Hartlepool Local Plan (HLP) (1994) which contain the detailed caveats which seek to ensure that these otherwise acceptable land uses do not give rise to adverse environmental effects. I consider, therefore, that the following policies are the most relevant in respect of the main issues that I have identified.
6. Policy Gen1 sets out the general considerations against which all development proposals will be assessed. These include the effect on the amenities of occupiers of nearby properties arising from, amongst other things, *general disturbance and noise, and any effect on highway safety*. Policy Ec14 records that within Hartlepool town centre, as defined on the Proposals Map, proposals for commercial uses, including those falling within Class A3, will normally be approved.
7. The Local Plan is presently under review in the form of the Hartlepool Local Plan - Revised Deposit (2003), which I understand is at an advanced stage in its progress towards adoption. However, I was advised at the hearing that, in the light of the Inspector's recent Inquiry Report, the Council were reconsidering the boundaries of the town centre and in particular, the extent of the Edge of Centre Mixed Use Areas covered by emerging Policy Com3a. The Council conceded that there was no certainty as to how this might affect the York Road area, where the appeal site is located. It was therefore agreed with the main parties that I would be guided by the current local plan in terms of the definition of the town centre and the acceptable land uses within it. However, it was acknowledged that the following general policies of the emerging local plan would apply. Amongst other things, Draft Policy GEP1 reiterates the relevant provisions of existing Policy Gen1 in terms of the assessment of new development proposals in relation to the amenities of local residents and to highway safety. Emerging Policy Com 18 indicates that A3 uses will only be permitted where certain criteria are met. These include the requirements that *there will be no significant detrimental effect on the occupiers of nearby properties by reason of noise, disturbance, smell and/or litter, and that they will not adversely affect highway safety*.

### Reasons

#### *Living conditions*

8. The appeal site lies towards the north western edge of the defined town centre, where the commercial uses on York Road take their place alongside terraces of houses lying behind the frontages of the main road. I agree with the Council that it is in these particular locations where the impact of the night-time economy, so actively encouraged by national and local policies to maintain the vitality and viability of the town centre, can begin to conflict with the amenities of long-established residential properties. Indeed, I heard evidence from a resident of Dent Street, which lies to the north west of the site, that the occupiers of houses in this street are regularly subjected to a significant degree of late night and early morning noise, disturbance and other detrimental effects, including unacceptable levels of drink-fuelled violence and anti social behaviour. I was told that this arises from

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Appeal Decision APP/H0724/A/04/1165129

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customers making their way home along the surrounding streets after leaving the local entertainment and drinking establishments.

9. I understand that the same local resident spoke at the planning committee meeting when the application was determined. Although the appellant considers that his comments to the councillors were unsubstantiated, I consider that his evidence is supported by the written observations, describing the existing, late night, noise environment and other adverse effects on the locality, made by the Wharton/Errol Street Residents Association, the Council's Head of Protection, the Town Centre Manager and the Police. Moreover, nothing I have read or heard suggests to me that such activities, and their harmful impact on the living conditions of the residents, are not a regular and regrettable part of the evening and night time environment in this part of the town.
10. It was acknowledged by the appellant that problems of noise and disturbance do arise from the existing, local, drinking establishments. However, it was argued that the noise environment already created by the number of food and drink premises in very close proximity to the site would not be made significantly worse by the proposals. The appellant also considers that, in accepting the Council's recommended condition that the premises would not operate after midnight, the proposals would not contribute to the most serious problems of noise and disturbance, arising in the early hours as the existing late night/early morning uses discharge their customers into the streets.
11. However, I subscribe to the alternative line of reasoning that, although the current situation is recognised as creating a noise environment that is relatively poor for local residents, their living conditions would be progressively eroded by the increased activity arising from each additional food and drink use trading in the locality. In this respect, the Council made a significant point at the hearing that the proposal would bring a public house on to a part of the York Road commercial frontage that does not presently accommodate such a use. I share the Council's concern that, throughout the evening, a successful new public house would attract a significant number of customers into York Road who would not otherwise be in this part of the street at that time of night. I consider that the comings and goings of these customers on foot and by vehicle, together with the congregation that would occur outside the premises, would increase the current levels of noise and disturbance in this part of the street.
12. In reaching this conclusion, I have had regard to the other, existing uses in the street that would currently attract customers during the evening, including the restaurants, the hot food premises and the bingo hall. However, whilst these establishments would give rise to some activity in this part of York Road, I consider that the proposed use, particularly the A4 use, with its attendant problems of noise, disturbance and congregation, would add to it to an unacceptable degree. The appellant also argued that there are public houses on York Road, south of its junction with Victoria Road. However, I consider that these lie closer to the heart of the town centre and are more closely associated with other mainly commercial uses rather than residential properties.
13. I acknowledge that only 1 residential flat could be identified above the commercial frontage of York Road, and I understand that this is linked to the existing restaurant use on the ground floor at 91A, opposite the appeal site. However, due to the gaps in the street frontage, I consider that the houses in Barbara Mann Court are sufficiently close to the site

## Appeal Decision APP/H0724/A/04/1165129

to be directly affected by any increased noise and disturbance, in the street, outside the appeal site.

14. Although I recognise that national and local policies encourage A3 uses in the town centre, I consider that the additional harm that would be caused to the living conditions of the occupiers of the nearby dwellings would be sufficiently significant to conflict with the terms of Policy Gen1 of the HLP and Policies GEP1 and Com18 of the emerging local plan.
15. I have considered whether my concerns on this issue could be overcome by the imposition of reasonable planning conditions, or by the appellant's offer of a unilateral agreement under the provisions of the Council's emerging policies on financial contributions. However, given that the detrimental effects would relate to activity in the street, I do not consider that conditions, or a legal agreement, would be successful in mitigating the harm that I have identified.

*Highway safety*

16. As one of the main routes to and from Hartlepool town centre, York Road is a busy thoroughfare, particularly at the traffic light controlled junction with Victoria Road. In front of the appeal site, the current waiting restrictions end at 7pm. At the hearing, the Council accepted that, at the present time, any calling vehicle could legitimately stop or park directly outside the appeal site after 7pm. However, it was argued that the present waiting restrictions reflected the nature of the existing uses, which would be unlikely to generate calling vehicles after this time, compared with the number of vehicle-borne customers likely to be attracted to a public house and restaurant. The Council went on to argue that the proposed uses would lead to potentially hazardous parking and manoeuvring on the highway in front of the site, similar to that recorded nearby on Victoria Road outside similar food and drink premises.
17. I acknowledge that if such manoeuvres were to take place, so close to the junction, it would give rise to some risk to other users of the highway and potentially hazardous interruptions to the free flow of traffic. However, I consider that the offer by the appellant to install a pedestrian safety barrier, as recommended by the highway authority, would be an appropriate and effective deterrent to kerbside parking by vehicles visiting the premises. This arrangement has been followed in York Road, south of the junction, and is clearly very successful in preventing vehicles parking, calling or delivering to the commercial buildings along the road frontage. If a similar barrier arrangement were appropriately installed in front of the appeal site, I consider that it would prevent vehicles dropping off or picking up customers close to this busy road junction. The alteration of the Traffic Regulation Order (TRO) to restrict waiting at all times, suggested by the highway authority and accepted by the appellant, would also have some impact in preventing parking outside the site, on the approach to the traffic lights. I accept that parking restrictions are often ignored by drivers stopping for only very limited periods of time. However, I consider that, in addition to the physical works to provide a barrier, amendments to the TRO would be beneficial in supporting its deterrent effect. I am satisfied that such works could be required by a reasonable planning condition following the 'Grampian' principles.
18. I conclude, therefore, that subject to the imposition of such a condition, the proposals would not give rise to any material harm to highway safety or impede the free flow of traffic in

Appeal Decision APP/H0724/A/04/1165129

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York Road, and would comply with existing and emerging development plan policies in this respect.

**Other Matters**

19. I have had regard to the decisions that have been taken by the Council relating to other food and drink uses in the area and to the appeal decisions submitted by both parties in support of their cases. However, I do not consider that these other developments are directly comparable with the appeal site and I have proceeded to determine the appeal on its merits in relation to the terms of the current and emerging local plans.

**Conclusion**

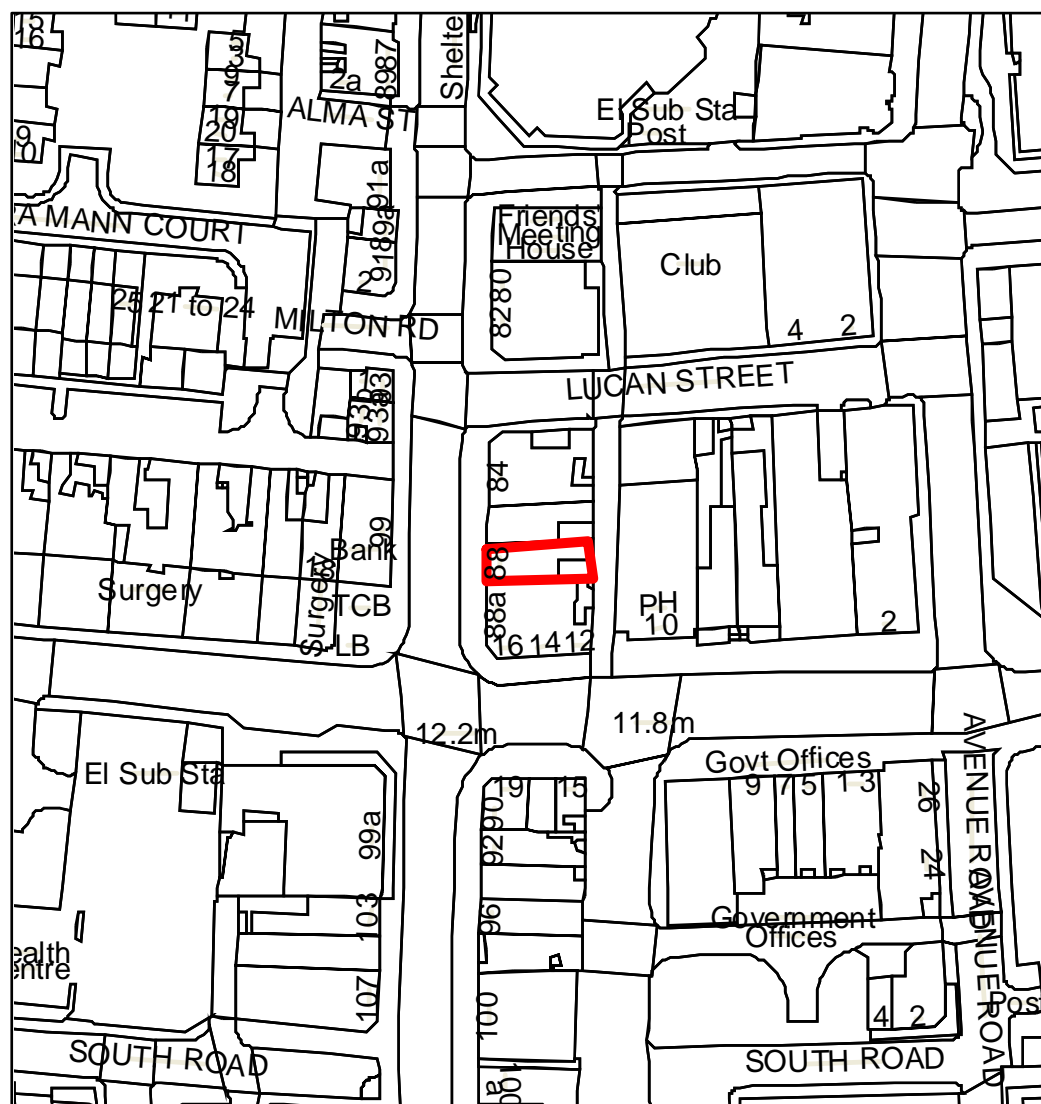
20. Although I have found that the proposals would not have any adverse impact on highway safety, I consider that the harmful effect on the living conditions of the residents of nearby dwellings should be the determining issue in this case. For the reasons given above, therefore, and having regard to all other matters raised, I conclude that the appeal should not succeed.

**Formal Decision**

21. I dismiss the appeal.



INSPECTOR

**88 YORK 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>24/09/2009</b>
	SCALE <b>1:1000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2009/0493</b>	REV

**No:** 5  
**Number:** H/2009/0404  
**Applicant:** Mr John Reed FEWSTON CLOSE HARTLEPOOL TS26 0QN  
**Agent:** CLC Construction Services Ltd Chris Linton 1a Hillcrest Grove Elwick Hartlepool TS27 3EH  
**Date valid:** 01/09/2009  
**Development:** Erection of a two storey garden room and bedrooms extension to the rear and a first floor bathroom and ensuite extension and a ground floor study extension to side (amended scheme)  
**Location:** 21 FEWSTON CLOSE HARTLEPOOL

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### The Application and Site

5.1 The application site is a large detached residential property with a detached double garage. The properties within the area are a mix of size and design of houses.

5.2 The application seeks the erection of a two storey garden room and bedrooms extension to the rear and a first floor bathroom and ensuite extension and ground floor study extension to the side. This is an amended scheme. The previous application H/2009/0356 was withdrawn by request of the agent and a new application submitted for consideration. Neighbour letters informing of the withdrawn application and neighbour notification letters for the new application were sent out at the same time and appears to have caused confusion for neighbours, therefore it would seem prudent to include the objections from the previous application when assessing the amended scheme.

### Publicity

5.3 The application has been advertised by way of a neighbour letters (8). To date there have been 3 letters of objection from neighbours who also commented on the previous withdrawn application and 1 letter of objection from a neighbour who has not replied to the new application but objected on the previous withdrawn application.

The concerns raised are:

- 1) Unduly large and imposing on our property
- 2) It will be overpowering and overlook out property more than in its present form
- 3) The huge expanse of brick work would impact on light/shadow to our home
- 4) Due to the size of the proposed extension we feel it will be a major nuisance in terms of potential disruption/damage through dust/deliveries
- 5) Garden is very close to the rear access to the application property for the builders to use. If this application is approved would request normal business hours for works to be carried out

- 6) The side extension would rob us of light which falls onto our patio area which is used frequently in the summer months.
- 7) The location of the side extension is where we can clearly see from our rear bedroom the sun rise and set, which we feel would be a selling factor for our property
- 8) Bought our house one year ago because of the open outlook at the rear of the property this view will now be obstructed by the side elevation
- 9) It will reduce light entering our property and reduce our chances of selling in the future due to the excessive size of the proposed extension
- 10) Rear extension over dominant on our property
- 11) 21 Fewston Close set higher than our property
- 12) 21 Fewston already extends 1.3m beyond our existing rear wall, therefore projection will be greater and present a solid wall of 4m in length
- 13) The proposed extension will detract from the open aspect to our back garden
- 14) Would like restriction of construction activities
- 15) Would ask that access not be obstructed should planning permission be granted.

The period for publicity has expired

Copy letters E

## Planning Policy

5.4 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

5.5 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 and the impact of the proposal in terms of possible overlooking, overshadowing dominance and/or poor outlook. The appearance of the proposal in relation to the main dwellinghouse and the street scene in general will also be assessed.

### Two storey side extension and single storey study extension

5.6 Current Council guidelines allows first floor extensions providing they do not dominate the house and/or are not unduly intrusive in the street scene. There are also minimum separation distances of 20m where principal elevations face one another or 10m where a blank gable wall would face the front or back of a property which are normally required in new developments.

5.7 21 Fewston Close is a large detached property at the head of a cul de sac with gardens to the front and rear. The proposed first floor side extension will be on the same footprint as the existing kitchen and utility room. The proposal will incorporate two small windows to the ensuite and bathroom which will be obscured and top hung. This is not a principal elevation and the proposed separation distance meets the recommended guideline. At its closest the first floor extension will be 10m from the rear of the extended 3 Chelker Close.

5.8 The proposed side study extension will be single storey and incorporates a small window in the side elevation facing the rear of 3 and 4 Chelker Close, again this meets separation distances. This window appears to be clear glazed a condition to have this obscurely glazed would seem prudent to prevent any overlooking issues that could arise.

5.9 The boundary treatment between the application site and the neighbouring properties on Chelker Close comprise of a low fence and conifer trees which are within the garden areas of Chelker Close. The rear elevations of 3 and 4 Chelker Close are slightly offset. Although there would be a small reduction in sun light due to the proposed side extension it is considered it would be difficult to sustain an objection to the proposal on these grounds. The extension is over 24m away from the nearest property on Blackton Close (number 12). Photographs will be displayed at the meeting.

### Single and Two storey rear extension

5.10 The proposed two storey element of the rear extension will project 2.7m from the original wall of the dwellinghouse. It is offset from the shared boundary with 22 Fewston Close by approximately 2.1m. The proposal also incorporates a single storey element which has the same projection, but is approximately 1.1m from the shared boundary. There is a difference in ground level between 21 and 22 Fewston Close with 21 sitting approximately 80 cm higher and approximately 1.3m back, from the neighbouring property at 22. There are no ground floor windows close to the party boundary in 22 Fewston Close the nearest window being a bedroom.

5.11 In these circumstances the proposed single and two storey extension need careful consideration particularly in relation to 22 Fewston Close.

5.12 The proposal is unlikely to have an effect on sunlight to 22 Fewston Close as 21 sits north of this property.

5.13 As indicated 21 Fewston Close sits higher and back from 22. The Council's guidelines seek to limit the projection of extensions close to a boundary, 2.5m being

considered acceptable on a shared boundary in a semi detached situation, for example. Here the single storey extension projects 2.7m. It is however offset from the neighbouring property by two path widths and the nearest ground floor window in that neighbouring property is offset from the boundary by a significant distance. Recent changes in legislation further complicate the situation and assessment since they would permit a single storey extension projecting 4m from the rear of the property without the need for permission, providing it is less than 4m high. The extension here is less than 4m high.

5.14 Similarly the guideline for 2 storey extensions have been overtaken by changes in legislation. Thus two storey extensions which project up to 3 metres from the back wall of a property would be permitted development providing they are offset 2m from a side shared boundary and 7m from a rear boundary. Here the two storey extension projects less than 3m, is more than 2 metres from the side boundary and is about 9m from the rear boundary at its closest.

5.15 It is only because this is a hybrid application – a linked two storey and single storey extension – that permission is required for the rear extensions in this case. Given the various considerations above it is considered that it would be very difficult to sustain an objection against this hybrid proposal in terms of concerns about dominance/outlook.

5.16 There are no windows proposed in the side elevation of the extension facing 22 Fewston Close and their subsequent installation can be precluded by conditions. There are therefore no concerns in relation to overlooking.

5.17 As already indicated a two storey extension could be provided here as permitted development. Separation distances as low as 14m between extensions are deemed to be acceptable under the new Regulations. Here the proposed extension will be approximately 22m from the closest property to the rear, 12 Blackton Close. Again it is considered that an objection could not be sustained in relation to concerns about overlooking, dominance or overshadowing of properties on Blackton Close.

5.18 Concerns relating to obscuring a clear open view is not a material planning consideration and therefore cannot be taken into account.

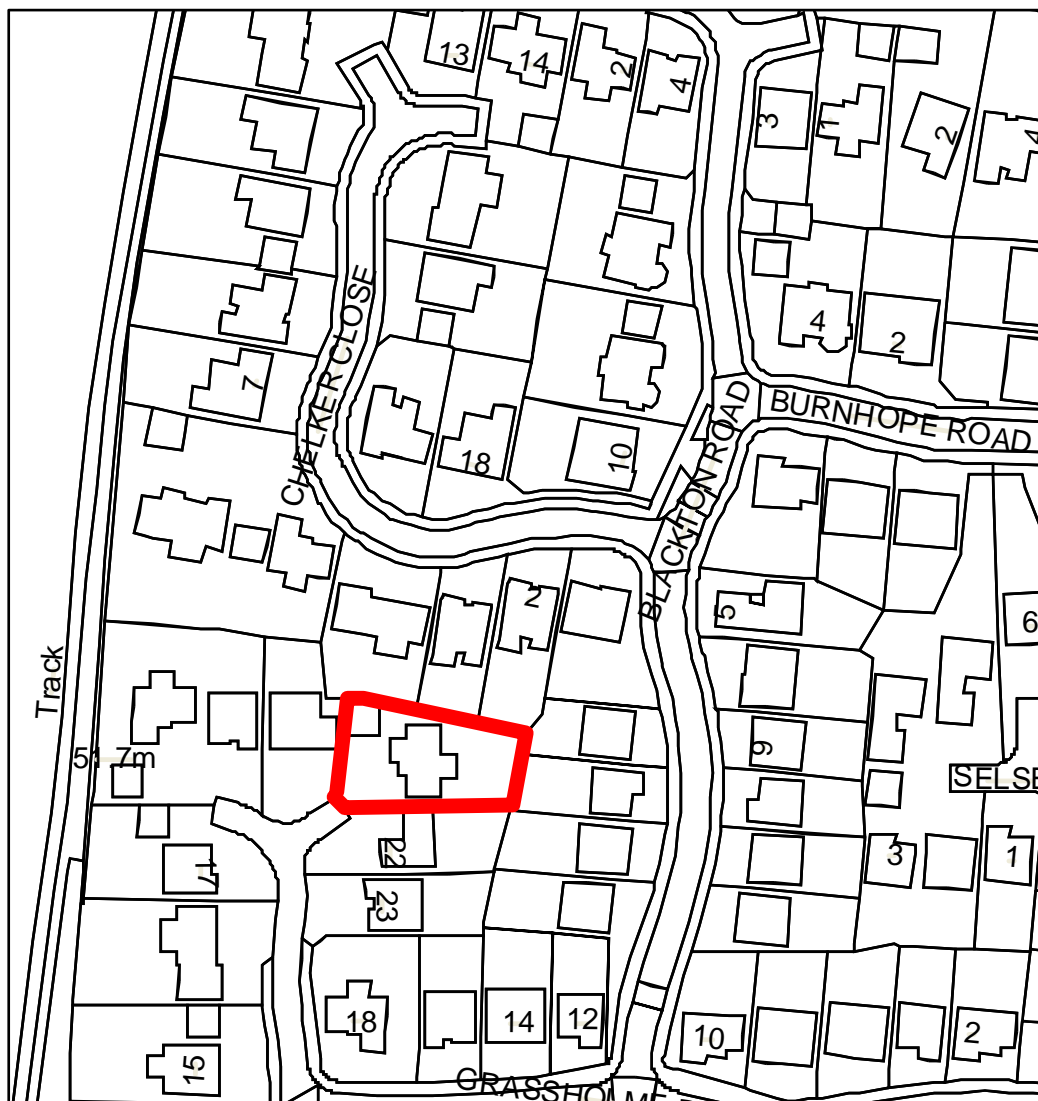
5.19 This type of development is not unusual on houses of this type and size and it is felt that the site can accommodate extensions of this scale.

5.20 With regard to the issue of noise during development in most cases we do not normally restrict working times on house extensions in order to allow for a degree of flexibility. The Council's Public Protection section have only ever considered it necessary to agree to a restriction on working hours in exceptional circumstances, instead relying on their statutory controls to deal with noise nuisance. This approach has been endorsed by Members in the past.

5.21 It is for the above reasons that the application is recommended for approval.

**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 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.
3. The development hereby approved shall be carried out in accordance with the amended plan(s) received on 21 September 2009, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt.
4. The proposed window(s) facing 3 and 4 Chelker Close shall be glazed with obscure glass which shall be installed before the study and ensuite and bathroom extension are brought into use and shall thereafter be retained at all times while the window(s) exist(s).  
To prevent overlooking.
5. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no windows(s) shall be inserted in the elevation of the extension facing 22 Fewston Close and no additional window(s) shall be inserted in the extensions facing properties on Chelker Close without the prior written consent of the Local Planning Authority.  
To prevent overlooking.

**21 FEWSTON CLOSE**

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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>24/09/2009</b>
	SCALE <b>1:1000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2009/0404</b>	REV

**No:** 6  
**Number:** H/2005/5254  
**Applicant:** Starford Holdings Ltd Suites 7b and 8b 50 Town Range Gibraltar  
**Agent:** SCA Planning Lazenby House St Mongahs Court Copgrove Harrogate HG3 3TY  
**Date valid:** 30/03/2005  
**Development:** Outline application for residential development open space and associated means of access (AMENDED SCHEME)  
**Location:** BRITMAG LTD OLD CEMETERY ROAD HARTLEPOOL HARTLEPOOL

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## Background

6.1 An application for approximately 480 dwellings was presented to Planning Committee on the 25<sup>th</sup> June 2008 where Members indicated they were minded to approve the application subject to conditions and a s106 legal agreement to secure planning gain.

6.2 The original development areas within the application site were located very close to the coastline and the Teesmouth and Cleveland Coast Special Protection Area (SPA). Accordingly the project would have needed to incorporate a coastal defence strategy. Various options of how best to protect the development sites from coastal erosion were considered. A combination of hard and soft defences were proposed.

6.3 The Council completed an Appropriate Assessment which considered the effects of the original project in terms of the magnitude of habitat loss due to coastal squeeze; disturbance due to increased recreational visits in the context of a narrowing extent of foreshore; disturbance due to construction activities around the coastal defences. After consideration of the above impacts, the Council concluded that, in the long-term, the original project would have an adverse effect on the integrity of the SPA through habitat loss and that adverse effects due to recreational disturbance could not be ruled out with certainty

6.4 In circumstances where it is not possible to ascertain that a development will not have an adverse effect on the integrity of an SPA, the Habitat Regulations specify that a clearly defined sequence of considerations are to be undertaken before an application is finally determined. The LPA went through these steps and concluded that:

1. there were no alternative solutions that would have a lesser effect, or avoid an adverse effect on the integrity of the site;
2. there were no priority habitat or species on the site which might be adversely affected.

3. there were imperative reason of overriding public interest which could be of a social or economic nature sufficient to override the potential adverse effect on the integrity of the SPA; and
4. that these adverse effects would have been compensated for by the creation of 8ha of inter-tidal habitat adjacent to the same SPA in a location some 10km to the south.

6.5 Although Natural England agreed with the Council's conclusion of the Appropriate Assessment and accepted that the adverse effects to the SPA could be addressed by the creation of compensatory habitat, they were not convinced that no alternative solutions with lesser impacts existed.

6.6 The application was referred as required to the Secretary of State under regulation 49 of The Conservation (Natural Habitats, &c.) Regulations 1994 (the Habitat Regulations) as the Local Planning Authority were unable to conclude that the proposal would not have an adverse effect on the integrity of a Special Protection Area (SPA), however the Local Planning Authority still considered that the proposed development should nevertheless be allowed to go ahead for imperative reasons of overriding public interest.

6.7 The Secretary of State directed, under her powers in section 77 of the Town and Country Planning Act 1990 that the application shall be referred to her instead of being dealt with by the Council in a letter dated 26<sup>th</sup> November 2008.

6.8 The application is therefore the subject of a Public Inquiry which is due to start on the 10<sup>th</sup> November 2009 and is preliminarily booked to last for 8 days.

6.9 During the run up to the Public Inquiry the developers have sought to address Natural England's concerns regarding the adverse effect on the SPA and have produced an amended scheme which is the subject of this planning committee report.

### **The Application and Site**

6.10 Outline planning permission is sought for residential development on the former Magnesia Works off Old Cemetery Road, variously known as the Steetley, Britmag or CJC site. The site comprises four distinct development areas covering more than 25 hectares that are characterised by large areas of tarmac, derelict warehouses, disused industrial machinery and structures and old brick buildings.

6.11 The two larger areas (A and B) are situated to the north of the Spion Kop Cemetery. Two smaller areas, identified as sites C and D are located to the south-east of the cemetery and include the former Barnshaw Bending site. Plans will be displayed at the meeting.

6.12 The application site lies immediately adjacent to the Hartlepool North Sands component of the Tees and Hartlepool Foreshore and Wetlands Site of Special Scientific Interest (SSSI), which is also a component part of Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site. The application site also lies in close proximity to the Durham Coast SSSI.

6.13 The proposal would comprise a residential development of some 484 dwellings, informal recreation space and an area of enhanced dune management and associated planting. Part of the project would include diverting the eastern end of Old Cemetery Road so that it culminates in a new roundabout junction with West View Road. It is anticipated that this alteration would be implemented after 100 dwellings have been completed in order to satisfactorily manage the increased levels of traffic generated.

6.14 Although a revised scheme has been submitted the nature of the application has not changed in terms of approximate numbers of dwellings and the proposed highway works as detailed above.

6.15 The revisions to the application include the development line being set back well back behind the 100 year erosion line which it is suggested means that there is no need to protect the development from coastal erosion, thus the revised proposal would not result in coastal squeeze or any reduction in the SPA beach area.

6.16 No coastal defence works are therefore proposed for the coastline at sites C, D and the Spion Cop cemetery thus it is argued the scheme is neutral in regard to the impact of continuing erosion in these areas.

6.17 The dune system at sites A and B has been significantly degraded by past industrial processes at the site. The proposal involves the rebuilding of the dunes to allow the natural dynamic beach-dune interaction to be re-established and increase the area of habitat that could potentially be available for the SPA in the future. The works at this location will it is again argued represent an overall positive impact on the sediment transport regime and beach dune interaction.

6.18 Whilst there is no need to protect the development from coastal erosion given its eastern edge lies well back behind the 100 year erosion line, the applicant proposes a “longstop” implemented on the eastern edge of the development on Sites A and B to give commercial confidence for future housebuyers. This would be a buried sea wall.

6.19 Although it is considered that this revised proposal would not have an adverse affect on the SPA in terms of coastal squeeze, the Habitat Regulations require that where a project may potentially have a significant effect on a conservation site of international importance, the LPA undertakes an ‘appropriate assessment’ to specifically determine the effects of the development on this site.

6.20 Although Natural England have not yet formally commented on the revised scheme, the LPA consider that they are obliged to undertake an appropriate assessment of the project alone and in combination with other projects in order to determine whether it would have an adverse effect on the integrity of the area. The LPA’s appropriate assessment is provided at Appendix A.

## Publicity

6.21 Four rounds of public consultation have now taken place, in relation to this application. In each round the application has been publicised by site notices, press notices and neighbour notifications.

6.22 Firstly at the time when the original application was submitted a single letter of objection was received raising concerns about impact on privacy and light and the future protection of the cemetery. 28 letters of no objection were also received.

6.23 The second round of consultation was due to further information being submitted concerning the ecological impact of the coastal defence strategy and the alignment of the proposed road. This resulted in 13 letters of no objection and 6 letters of objection (2 of which were from the same objector). The objections were entirely focussed on the impact of the proposed road re-alignment and in particular the following issues:-

1. That it would encroach across the landscaped area immediately to the west of the former engine house which would be detrimental to visual amenity.
2. That in so doing the road re-alignment would cut across footpaths and would impede access for the disabled through this area.
3. That it would compromise aspirations to incorporate this green open space as part of a wider linear park to the detriment of residential amenities.
4. Concern that the development will hamper access for emergency vehicles in the event of an accident or a flood event occurring.
5. An alternative traffic flow system has been suggested involving a One Way System along Thorpe Street. This would have the advantage of not damaging the linear park, would slow traffic down and reduce traffic congestion allowing school children to be collected in a safer environment.
6. Would not want Howard Street opening up as an access road due to traffic.
7. Do not close Old Cemetery Road.

6.24 A letter from a resident was also received raising concerns about the potential for vibration if the chimney were to be demolished.

6.25 A letter of support was received advocating the redevelopment of a derelict site.

6.26 A letter was also received with queries regarding how the site would be demolished, detoxified, dates for demolition and completion of the project and regarding measures for the sea defences.

6.27 The third round of public consultation was undertaken in June 2009. The application had been slightly amended to try and address the concerns of Natural England.

6.28 This round of consultation received 23 letters of no objection, and 2 letters of objection, one objection did not have any reasons the other had concerns with privacy issues, (the objector lives in Vincent Street and the houses up on the banks on Old Cemetery Road may be able to see into the objectors gardens because of the elevated heights they will be built on).

6.29 To date in the fourth round of consultation in September 2009 there have been 22 letters of no objection, 1 letter of comment and 3 letters of objection (one of which did not provide reasons). The scheme currently out for comment is the scheme which this report details.

6.30 The letter of comment supported the application stating the site is an eyesore and they are sick of fire engines waking them up all the time and that the site is a disgrace, people just use it as a dump.

The objections cited the following grounds:

1. doesn't think the building of new houses on Steetley is a good idea.
2. they would certainly not even think about buying a house on that land.
3. just doesn't think it would work at all.
4. will escalate the number of people crossing the golf course increasing the danger of being struck by balls, with the consequences being serious injury and a health and safety issue.
5. there will be path and dune erosion which is serious at the moment.

6.31 The period for publicity expires on the 30<sup>th</sup> September. Should any further responses be received prior to the Planning Committee they will be reported to the Committee accordingly.

6.32 Objection & comment letters from all 4 consultation rounds are contained within the background papers copy Letters C

## Consultations

6.33 The following consultation replies have been received:

**Association of North East Councils** – ANEC raised some issues of concern in relation to the development resulting in a loss of employment land with a rail transport connection; the lack of public transport access proposed in the scheme; potential detrimental impact on the regeneration of Victoria Harbour; and the lack of any embedded renewable energy. ANEC would no longer see housing numbers as an issue of non-conformity provided there was no detriment to delivering the RSS. However, ANEC reiterate that the Council need to be confident that this level of housing development on the site would not have a detrimental impact on the successful delivery of the Victoria Harbour development.

**CABE** – No response to the revised proposal however previous comments were that they do not wish to comment at this stage.

**Cleveland Fire Brigade** – original comment was that they had no objection to the scheme.

**Cleveland Police** – no objection to the original scheme, only concern would be the reopening of the Brus Tunnel, without careful consideration given to the possible anti-social behaviour this might encourage.

**Durham Heritage Coast Partnership** – Are pleased to see that the revisions proposed are more sympathetic to the natural environment and work with the natural processes of the coast. We are particularly pleased to see a more extensive dune system being created. We would also comment that the dog walking disturbance figures do not take into account the increased use of the coastal footpaths that will result from development connecting into the promoted coastal footpath.

**English Heritage** – No substantive objections but request consideration be given to the impact of development on the former Engine House (letter dated 22 November 2005). Consultation response to the revised scheme is that there are no observations to make and is content to defer to the Tees Archaeologist.

**English Partnerships** – original comment was that they had no comment to make on the application, however they anticipated 20% affordable housing rather than 10%

**Environment Agency** – originally objected on flood risk grounds but subsequently no objections subject to conditions to secure environmental protection. A response is awaited regarding the revised scheme.

**Government Office for the North East** - Do not wish to comment at this stage.

**Hartlepool Economic Forum** – original comment was that they support the re-development of the site. Site offers very little prospect of attracting any industrial use due to its poor location, infrastructure and condition. Opportunity to provide more executive housing.

**Headland Parish Council** – Will be considered at the Parish Council meeting on Tuesday 29<sup>th</sup> September.

**Highway Agency** – No objections

**HSE** – The development does not meet the agreed criteria therefore the HSE does not advise against (Padhi+)

**National Grid** – the risk from this development is negligible

**Natural England** – Awaiting comments

**North East Ambulance Service** - original comment was that they had no objection to the scheme.

**Northumbrian Water** – No objection to the revised scheme subject to condition.

**One North East** – The Agency has some concerns relating to the provision of a significant amount of additional residential units on the Britmag Magnesia Works site undermining the regeneration proposals at Victoria Harbour and creating an over supply of housing in this area of Hartlepool. The Agency would urge the Council, if minded to approve this application, to impose by condition/agreement appropriate measures to control the phasing of the development to ensure that the site can be

developed without harming other proposed housing schemes within the area. Development should be designed to incorporate energy efficiency measures.

**PD Ports** – originally objected to the scheme on basis of excessive housing numbers.

**Ramblers Association** - welcomes proposal, the more open nature of the site is to be welcomed.

**RSPB** – Awaiting comments

**Tees Archaeology** – Concerned about loss of/damage to Throston Engine House embankment.

**Tees Valley Regeneration** – no objection

**Tees Valley JSU** – In relation to the original scheme the Joint Strategy Committee concluded that the Borough Council should be satisfied that the proposal meets other policies and objectives such as access to services & facilities, public transport links, and the effect on other housing proposals and regeneration projects. No response has been received in relation to the revised scheme.

**Engineering Consultancy** – no objection to the scheme, subject to conditions which include removal of contaminated material and remediation of the site.

**Traffic and Transportation** – No objection as per the original scheme. Planning agreement to develop coastal walkway would be desirable. Travel plan should focus on improving range of linkages between the sites and West View Road for pedestrian and cycle access.

**Public Protection** – No objection

**Economic Development** – supports the proposed redevelopment of the site, it is believed that the land has no employment benefit.

**Property Services** – no comment

## **Planning Policy**

6.34 The Regional Spatial Strategy is relevant in this case and the following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Dco2: States that the Borough Council will pay regard to the advice of the Environment Agency in considering proposals within flood risk areas. A flood risk assessment will be required in the Environment Agency's Flood Risk Zones 2 and 3 and in the vicinity of designated main rivers. Flood mitigation measures may be necessary where development is approved. Where these are impractical and where the risk of flooding on the land or elsewhere is at a level to endanger life or property, development will not be permitted. ( Policy not saved beyond April 2009 but PPS25

and standing advice from the Environment Agency are material)

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.

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.

GEP18: States that development on potentially contaminated land will be encouraged where the extent of the contamination has been verified, remedial measures have been identified and where there will be no significant risk to occupiers of adjacent properties or adverse effect on the environment.

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.

GEP5: States that environmental assessment of proposals will be required for all schedule 1 projects and for those schedule 2 projects likely to have a significant effect on the environment. The policy also lists other instances where the Borough Council may require an environmental assessment. ( Policy not saved beyond April 2009 as regulations set out in legislation )

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.

GN3: Strictly controls development of this area and states that planning permission will only be granted for developments relating to open space uses subject to the effect on visual and amenity value and character of the area, on existing uses, the continuity of the green network and on areas of wildlife interest.

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. ( Policy not saved beyond April 2009 but PPS15 is material)

Hsg5: A Plan, Monitor and Manage approach will be used to monitor housing supply. Planning permission will not be granted for proposals that would lead to the strategic housing requirement being significantly exceeded or the recycling targets not being met. The policy sets out the criteria that will be taken into account in considering applications for housing developments including regeneration benefits, accessibility, range and choice of housing provided and the balance of housing supply and demand. Developer contributions towards demolitions and improvements may be sought.

Hsg9: Sets out the considerations for assessing residential development including design and effect on new and existing development, the provision of private amenity space, casual and formal play and safe and accessible open space, the retention of trees and other features of interest, provision of pedestrian and cycle routes and accessibility to public transport. The policy also provides general guidelines on densities.

Ind10: States that proposals for underground storage in this area will only be approved subject to criteria set out in the policy relating to risk to people, effect on the aquifer, watercourses and nature conservation sites, and amount and visibility of above ground structures. In these respects particular regard will be taken of advice received from the Health and Safety Executive, the Environment Agency, Hartlepool Water Company and English Nature as appropriate.

PU1: Requires that development proposals be designed to ensure that there is no additional flood risk. Sustainable drainage is encouraged. ( Policy not saved beyond April 2009 as covered by national legislating)

Rec1: States that proposals for outdoor recreational developments on this part of the coast will only be approved where the development does not significantly detract from the nature of the surrounding coastal landscape, its effect on nature conservation and on heritage interest and where the development enhances the quiet enjoyment of the coast subject to the provisions of WL1 and WL2. Active pursuits should be located within the Marina, Victoria Harbour and Seaton Carew.

Rec2: Requires that new developments of over 20 family dwellings provide, where practicable, safe and convenient areas for casual play. Developer contributions to nearby facilities will be sought where such provision cannot be provided.

Rec3: Identifies locations for neighbourhood parks and states that developer contributions will be sought to assist in their development and maintenance.

Rec4: Seeks to protect existing areas of outdoor playing space and states that loss of such areas will only be acceptable subject to appropriate replacement or where there is an excess or to achieve a better dispersal of playing pitches or where the loss of school playing field land does not prejudice its overall integrity. Where appropriate, developer contributions will be sought to secure replacement or enhancing of such land remaining.

Rec5: Identifies this location for the development and improvement of sports pitches.

Rec8: Identifies that this area will be developed for quiet recreational purposes.

Rec9: States that a network of recreational routes linking areas of interest within the urban area will be developed and that proposals which would impede the development of the routes will not be permitted.

To2: Supports appropriate visitor-related developments which are sensitive to the setting, character and maritime and christian heritage of this area.

To7: States that green tourism will be promoted through the provision of facilities for observation and interpretation of wildlife and the natural environment. ( Policy not saved beyond April 2009 )

Tra17: Seeks to preserve access from industrial land to the railway and supports the provision of new rail sidings.

Tra18: Sets out the considerations for the development rail based freight handling facilities including impact on surrounding area and provision of adequate access.

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 managementschemes should take account of the need to provide links to the network.

WL1: States that development likely to have a significant adverse effect on an international nature conservation site will be subject to the most rigorous examination and will be refused unless there is no alternative solution or there are imperative reasons of over-riding public interest for the development. Where development is permitted, the use of planning conditions or obligations will be

considered to avoid and minimise harm to the site, to enhance its interest and to secure any necessary compensatory measures. ( Policy not saved beyond April 2009 but PPS9 and Habitats Regulations relevant)

WL2: States that developments likely to have a significant adverse effect on SSSIs will be subject to special scrutiny and may be refused unless the reasons for development clearly outweigh the harm to the special nature conservation interest of the site. Where development is approved, planning obligations or conditions will be considered to avoid and minimise harm to the site, to enhance its interest and to secure any necessary compensatory measures.

WL3: States that the Borough Council will enhance the quality of SSSIs in a sustainable manner and will seek management agreements with owners or occupiers to protect native species and habitats from damage or destruction.

WL5: States that development likely to have an adverse effect on a local nature reserve will not be permitted unless the reasons for development outweigh the harm to the substantive nature conservation value of the site.

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. ( Policy not saved beyond April 2009 but PPS9 and Sub regional plans & targets relevant)

## **Planning Considerations**

6.35 The main considerations in this case are policy issues in terms of the proposed land use and housing numbers, the long term impact of the project on sites of international importance for nature conservation, removal of contamination and industrial dereliction, visual amenity, highway safety and accessibility issues, coastal defence and flood risk, ground stability, conservation and archaeology.

### Policy issues

6.36 The site is at a prominent brownfield location and development would transform the outlook from the surrounding area and bring major regeneration benefits. Without a scheme of this type it is difficult to see how the improvement and remediation of this extensive area of dereliction could be served.

6.37 In terms of the affect of the development on the surrounding area, it should be noted that the surrounding area is predominantly residential and although the site is in an elevation position it is considered that the principle of residential development on this site is acceptable. The final detail of the residential scheme would be considered at a reserved matter application.

6.38 In terms of housing numbers it is anticipated that the development of this site would not have a detrimental effect on the provision of housing within the town. Whilst a number of consultees expressed concerns about housing numbers, these comments were expressed early in the life of this application, since then developing evidence within the Regional Spatial Strategy 2008, the Strategy Housing Market

Assessment 2007 and the Tees Valley growth point proposals have demonstrates significant housing needs.

6.39 The RSS Policy 28 sets out the housing provision for Hartlepool for the period up to 2021 and indicates there is a need for additional housing in Hartlepool area and this would support the Council's intentions for growth. Although not allocated in the Local Plan a part of the site has subsequently been identified in the Borough's five year land supply. The addition of 484 residential units is therefore acceptable in principle.

6.40 The proposed new link road into the site would cross over parts of Central Park and the proposed neighbourhood park (Rec3). However the proposal does include the provision of open space within the application site, which can be considered as a compensatory measure for the loss of some of the recreational land of Central Park. As indicated below, without the provision of a road of this nature, development of this scale would not be acceptable in highway terms

6.41 Policies Tra17 & Tra18 relating to rail use and rail sidings seek to preserve such facilities where they exist. The Economic Development Manager considers this line to be of little benefit in economic terms. The loss set against the overall regeneration benefits from the scheme is not therefore considered significant.

6.42 The development proposes a mix of type of unit and density across the site and as such largely complements the findings of the Regional Housing Aspirations Study carried out in 2005 and the Hartlepool Housing Market Renewal Assessment 2007.

6.43 One North East and The Association of North East Councils (ANEC) have raised some concerns in relation to the development resulting in a loss of employment land with a rail transport connection; the lack of public transport access proposed in the scheme; potential detrimental impact on the regeneration of Victoria Harbour; and the lack of any embedded renewable energy. These concerns remain.

6.44 In terms of housing provision, there has been a change in policy context since the conformity response was submitted in 2005, with the Government's aims to deliver 3 million homes by 2020. Given this emphasis on housing growth, Regional Spatial Strategy (RSS) housing allocation figures are no longer considered a ceiling for housing development. Therefore ANEC would no longer see this as an issue of non conformity provided there was no detriment to delivering the RSS. However, ANEC would reiterate that the Council need to be confident that this level of housing development on the site would not have a detrimental impact on the successful delivery of the Victoria Harbour development.

6.45 It has to be acknowledged that the Victoria Harbour scheme has not been approved to date. Notwithstanding this it is considered that phasing conditions can ensure compatibility between the two schemes. It is considered the other issues raised by ANEC and ONE can be addressed by conditions.

6.46 In the event of planning permission being approved there is scope to negotiate a number of community benefits under Policy GEP9. These are currently being discussed and will be reported accordingly, these include site clearance and

reclamation, provision of footpaths/cycleways, affordable housing and the maintenance of open space within the site.

### Impact on SPA

6.47 This issue has generated prolonged investigation and negotiation and is the reason why the application is the subject of a Public Inquiry.

Initially Natural England commented that it considered the original project would be likely to have a significant effect on the interest features of the Teesmouth and Cleveland Coast Special Protection Area and Ramsar site. The concerns were essentially threefold:-

1. That the proposed coastal defence scheme would ham the integrity of the SPA due to the projected long term loss of some 5.25 hectares of foreshore habitat to coastal squeeze.
2. That the construction activities would cause disturbance to SPA bird interests.
3. That the additional resident population in close proximity to the SPA would have an adverse effect on birds as a result of recreational activities.

6.48 As highlighted throughout this report the scheme has been revised to ensure that there is no coastal squeeze and therefore no loss of SPA. This has been due to the development being set well back beyond the 100 year coastal erosion line, therefore point 1 is now not relevant.

6.49 It should be noted that comments from Natural England are awaited in relation to the revised scheme, however it is anticipated that points 2 and 3 would still cause some concerns. Therefore in accordance with the Habitat Regulations the Local Planning Authority is obliged to undertake an 'appropriate assessment' of the project to assess its impact on the SPA. The findings of this assessment are thus considered below.

6.50 Two potential adverse effects on the Teesmouth & Cleveland Coast SPA have been identified as a result of this project. These are disturbance due to construction and reclamation activities and increased recreational disturbance.

6.51 Construction activities has the potential to result in visual and noise disturbance to birds. It is concluded that the solution would be to time the works to occur over the summer period, thus avoiding the periods when wintering and migratory birds are present. Reclamation works are thought unlikely to create disturbance on the SPA above baseline conditions however precautionary measures such as additional screening are to be agreed in advance as part of a construction methodology. This can be controlled by planning condition. On this basis the Council's Ecologist has concluded that there are no adverse effects in terms of construction activities/reclamation works.

6.52 With respect to increased disturbance in the long term, it is considered that the development would result in an estimated 1200 residents. This has the potential to cause an increase in disturbance from recreational activities, particularly dog walking. Disturbance due to an increase in recreational activities has the potential to increase the number of disturbance events causing birds to leave the area from the

current, average levels of 2 events per day to up to 2.6 such events per day. The Local Authority is currently initiating proceedings to institute a ban on dogs off leads on the foreshore in front of the proposed development during the months of September – March in the light of its current responsibilities which should limit the potential cause of disturbance. Measures to reinforce this are proposed by the developer in acknowledgment that this may require further resources/monitoring as houses are occupied.

6.53 A number of other measures, such as locating the coastal path to channel walkers and a proportion of dog walkers, including current users, away from the SPA, the use of fencing to prevent access to the beach, positive signage highlighting the importance of the SPA and request that dogs are kept on a lead. It is also proposed to prevent vehicles accessing the beach, thus removing another current source of disturbance and all occupants of the new development will be provided with information to alert them to the importance of the SPA and to the provisions of the Dog Control Order.

6.54 After consideration of the above potential impacts and the mitigation provided, the Council has concluded that the revised scheme would not have any adverse effect on the Teesmouth & Cleveland Coast SPA. This has been sent to Natural England for their agreement and will be reported to the Committee accordingly.

#### Physical Regeneration

6.55 It is considered that the development offers the only viable opportunity of significant physical improvement to what is currently a derelict eyesore in a very prominent location. The environment of the site will be improved through decontamination, clearance and the development of access to open space and the coastline. The extent of industrial pollution on the site is significant and is projected to cost up to £8 million to remediate. It is very unlikely that this will be achieved without residential redevelopment of the sites of sufficient scale and quality to generate the necessary value to fund such costs. The influx of residents is also anticipated to be beneficial to the local economy.

#### Coastal Protection Requirements

6.56 In discussions with Natural England and RSPB it became clear that there remained an issue in respect of the previously proposed coastal defence works in terms that they would give rise to loss of future intertidal habitat, designated as SPA. Several alternative coastal protection options were investigated for the original development scheme layout, however the scheme has now been revised to ensure that the development would not contribute to coastal squeeze in the area, it is anticipated that this would overcome the concerns from Natural England and RSPB.

6.57 The documents which relate to coastal protection requirements for Hartlepool are the River Tyne to Flamborough Head Shoreline Management Plan (SMP) and the 2<sup>nd</sup> Edition of the Shoreline Management Plan (SMP2, 2007), and the Hartlepool Coastal Strategy Study (2006) the thrust of these documents are to protect the Hartlepool Headland while the area to the north should be allowed to retreat naturally with no active intervention.

6.58 The coastal defence works proposed with the revised scheme are significantly less than previously suggested this is due to the development area now being proposed well back beyond the 100 year coastal erosion line.

6.59 Whilst there is no need to protect the development from coastal erosion given its eastern edge lies well behind the 100 year erosion line, there is proposed to be a “longstop” implemented on the eastern edge of the development on Sites A and B to give commercial confidence for future housebuyers. The “longstop” is proposed to be a buried revetment constructed of hexagonal concrete armour units.

6.60 The proposed “longstop” will not have an impact on the coastal process until about 150 years time when it would become exposed. At that time the revetment can either be included in a future coastal defence or removed depending upon national coastal defence policy at that time.

6.61 The Council's Engineering Consultancy Team has assessed the scheme and has no objection to the proposal, subject to conditions.

#### Antisocial behaviour, crime/vandalism

6.62 The redevelopment of this site would remove the sites uncertain future. It has been well documented that the site is suffering from anti-social behaviour, theft and trespass. In 2008 there was a public safety issue in terms of debris falling onto the public highway and striking a passerby. The redevelopment of the site will remove the focus for these problems in the short term and provide an attractive long term solution to the area in such a prominent location.

#### Highway safety and accessibility issues

6.63 The application proposes the provision of a roundabout west of the Throston Engine House with a new road linking to Old Cemetery Road to West View Road. It is proposed that Old Cemetery Road will be stopped up immediately north of the junction with Penrith Street, following construction of the new link road.

6.64 The Council's Traffic and Transportation team have assessed the information provided and consider that the position of the proposed roundabout to be acceptable in highway terms. As the application is in outline there is no indication of parking provision for the development, however it is anticipated that the required parking can be sufficiently accommodated within the site.

6.65 There may be a requirement for traffic calming and traffic regulation orders on Old Cemetery Road, however at this stage it is considered that this can be conditioned.

6.66 There is potential with this application for the inclusion of cycleways/footpaths within the site which would link up to an existing route, this is still being discussed. This is one of the key strategies of the Council's Cycle Strategy Plan.

6.67 The Highways Agency has no objection to the proposal and has confirmed that the proposed development is not considered to have a material impact on the trunk road network.

#### Visual Amenity

6.68 In terms of visual amenity as already highlighted the site is very prominent and can be viewed throughout the town, by the areas to the north and from the main Middlesbrough to Newcastle railway line. It is a gateway site which is currently an eyesore detrimental to the town's aspirations for growth and image. It is considered that this application represents the only opportunity for the Council to be proactive in tackling a problem site with a view to long term physical improvements.

#### Ground stability

6.69 The Council's Engineering Consultancy Team has confirmed that the recent White Young Green study commissioned by Hartlepool Borough Council has indicated that the application site is not affected by the adjacent disused anhydrite mine in terms of ground stability. It is considered that the mine is stable and potentially damaging ground movements related to the presence of the mine are not predicted to occur now or in the foreseeable future.

6.70 The Council's Engineering Consultancy Team has confirmed that there is no objection to the development of this site for residential purposes in terms of ground stability.

#### Conservation and Archaeology

6.71 The Council's Landscape and Conservation Manager has assessed the scheme and has concerns regarding the effect the development would have on the Throston Engine House which is a Grade II Listed Building and its relationship to the adjoining land. There is concern that the context and setting of the Engine House would be lost through the provision of the roundabout, making it an isolated building.

6.72 On the other hand English Heritage has no substantive observations to make on this application, and are satisfied that the proposals will have no impact on designated sites or features of heritage importance. However they are conscious of the possible implications for the Throston Engine House and have advised that the Council progress with securing improvements to the public realm in its vicinity, and its visual and operational linkage with other sites and users.

6.73 There are areas where there is archaeological interest within the site, therefore Tees Archaeology consider conditions to assess the areas as prudent, should the application be successful. Tees Archaeology have concerns with the proposed access arrangements on the basis that it will damage an important cultural asset (the Throston Engine House).

6.74 It is difficult to reconcile the various comments about Throston Engine House. It is considered that it would be difficult to secure any sustainable improvements given

that the building is in private ownership with no certainty of long terms viable use. Accordingly it is considered that the wider regeneration benefits should outweigh the limited detrimental impact in this case.

6.75 The application site does not include the Spion Kop Cemetery. There are no concerns regarding the effect of the development on this cemetery.

## **Conclusion**

6.76 This application for residential development on a site not previously allocated for such use has generated a wide range of planning issues. In particular, the proposals relationship with the internationally important Special Protected Area has necessitated prolonged investigation of options.

6.77 It is considered that the proposal will contribute significantly to Hartlepool's potential housing supply and remove a prominent blot on the town's landscape.

6.78 Most fundamentally, the consideration of relevant policy, the nature conservation considerations and the economic viability issues leads to the conclusion that the negotiated proposal represents the only practical means of putting the application site to positive use and eliminating the environmental and safety problems presented by the sites current condition.

6.79 It is for these reasons that it is therefore recommended that Members indicate that they are minded to approve the application, and ask the Planning Inspector to consider the revised scheme at the impending Public Inquiry.

6.80 Conditions and heads of terms for the proposed Section 106 agreement continue to be discussed. An update will be provided with proposed conditions and heads of terms for the legal agreement.

**RECOMMENDATION:** Members are minded to approve this application, subject to conditions and the applicant entering into a legal agreement to secure planning gain and request the Planning Inspector to consider the latest amendments at the impending Public Inquiry into the development of this site.

## APPENDIX A

<p align="center"><b>APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE</b></p> <p align="center">CONSERVATION (NATURAL HABITATS &amp; C.) REGULATIONS, 1994</p>				
<b>PART A: The Proposal</b>				
<b>1. Type of permission:</b> Outline planning permission	<b>2. Application reference:</b> H/2005/5254	<b>3. National reference:</b> NZ5035/NZ5135/NZ5130	<b>Grid</b>	<b>'P' Number(s):</b>
<b>4. Map of Application site and Peat Permission reference(s)</b>  <p align="center"><i>Map Attached – Yes / No</i></p>	<b>5. Brief description of proposal:</b>  <p align="center">Outline application for residential development, open space and associated means of access.</p>			
<b>6. European site name(s):</b>	Teesmouth and Cleveland Coast SPA/Ramsar			

**7. List of interest features:**

**SPA Features:**

- A. Supports populations of European importance of the following species, listed on Annex 1 of the EU Birds Directive: **Little Tern**, 37 pairs representing at least 1.5% of the breeding population in Great Britain; **Sandwich Tern**, 2,190 individuals representing at least 5.2% of the population in Great Britain on passage migration.
- B. Supports populations of European importance of the following migratory species: **Ringed Plover**, 634 individuals on passage migration, representing at least 1.3% of the Europe/Northern Africa wintering population; **Knot**, 4,190 individuals representing at least 1.2% of the wintering Northeastern Canada/Greenland/Iceland & Northwestern Europe population; **Redshank**, 1,648 individuals representing at least 1.1% of the wintering Eastern Atlantic population.
- C. Over winter, regularly supports 21,406 individual waterfowl including Sanderling, Lapwing, Shelduck, Cormorant, Redshank & Knot.

**APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE****CONSERVATION (NATURAL HABITATS & C.) (Continued)**

<b>PART B: Identification of effects being considered and relevant features affected</b>			
<b>Significant effect being considered (attribute affected)</b>	<b>Affected qualifying feature(s)</b>	<b>Favourable condition target(s) for relevant feature(s) based on conservation objectives set for SPA/ Ramsar</b>	<b>Contribution of attribute(s) to site integrity (ecological structure and functioning of site)</b>
Disturbance due to construction and reclamation activities. This could prevent bird species from feeding or cause them to make additional movements thus using up energy stores.	Assemblage of over 20,000 waterfowl in the winter Populations of European importance of migratory species.	Subject to natural change, maintain in favourable condition the habitats for the internationally important populations of the regularly occurring migratory bird species, under the Birds Directive, in particular: Rocky shores; intertidal sandflat and mudflat; saltmarsh.	The foreshore sandflats that would be affected by this proposal are an important roosting area for wintering waterfowl and migratory species and, to a lesser extent, a feeding area for those birds.
Disturbance due to an increase in the number of people living adjacent to the SPA resulting in an increase in recreational activities on the SPA. This could prevent bird species from feeding or cause them to make additional movements thus using up energy stores.	Assemblage of over 20,000 waterfowl in the winter Populations of European importance of migratory species.	Subject to natural change, maintain in favourable condition the habitats for the internationally important populations of the regularly occurring migratory bird species, under the Birds Directive, in particular: Rocky shores; intertidal sandflat and mudflat; saltmarsh.	The foreshore sandflats that would be affected by this proposal are an important roosting area for wintering waterfowl and migratory species and, to a lesser extent, a feeding area for those birds.

**APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE**

**CONSERVATION (NATURAL HABITATS & C.) (Continued)**

<b>PART C: Assessment</b>				
<b>Significant effect being considered (attribute affected)</b>	<b>Effect of proposal alone on attribute and/or feature and in relation to conservation objective for the feature</b>	<b>Effect of proposal in combination with other plans or projects, on attribute and /or feature</b>	<b>Can adverse affects be avoided?</b>	<b>Adverse affect on integrity; long term, short term. Yes, no or uncertain?</b>

Disturbance due to construction and reclamation activities.	<p>The construction of the coastal defences (a buried long stop behind areas A &amp; B) and the reclamation of the site could potentially result in visual and noise disturbance to a small number of birds that roost at the base of the cliffs at high tide and to birds feeding on the foreshore at low tide. Reclamation works will be within the footprint of the former Britmag works, which were operational when the SPA was designated. Reclamation works are therefore unlikely to create any significant disturbance beyond that to which the birds were accustomed through the site being operational. Nevertheless the possibility of additional disturbance cannot be rule out with certainty without mitigation.</p>	No in-combination effects anticipated.	<p>Construction of the coastal defences will be undertaken during the summer period April-October inclusive to avoid any effects on wintering waterfowl and migratory species.</p> <p>Construction will use a tracked excavator or soft balloon tyred excavators. A designated construction corridor will be agreed with Natural England with no movement of plant in the lower beach area beneath this designated zone.</p> <p>Reclamation works will be done to an agreed construction methodology which will include measures to avoid disturbing birds such as temporary fencing to screen any visual impacts.</p>	No, given the proposed mitigation
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<p>Disturbance due to an increase in the number of people living adjacent to the SPA resulting in an increase in recreational activities on the SPA.</p>	<p>The proposal will result in almost 500 homes being built adjacent to the SPA with an estimated 1200 residents. This could result in an increase in disturbance from recreational activities. By far the most significant of these disturbance activities is dogs being exercised off leads. By comparison with current usage by dog walkers it is calculated that the new development would increase the average number of disturbance events of the most significant level, ie such that it would cause birds to abandon the area, from the current level of 2 such events per day to between 2.4 and 2.6 events per day. (The precise increase would depend on whether the people living in the new homes are considered to be twice as likely or three times as likely to walk their dogs on the beach as other others living within a mile radius of the SPA)</p>	<p>No in-combination effects anticipated.</p>	<p>The Local Authority is initiating proceedings to institute and enforce a Dog Control Order preventing dogs off leads along the frontage of the development during the months of September – March. This will be regardless of the development and be done as part of the Local Authorities duty under Section 28G of the Wildlife &amp; Countryside Act. This action will go some way to removing the main cause of disturbance.</p> <p>In addition to the above there will be specific mitigation measures that will be implemented as part of the development.</p> <p>The coastal path will be drawn back 45m from the cliff/dune edge. This will allow users views of the sea but prevent SPA birds from seeing walkers and being disturbed by them. The coastal path will channel a proportion of dog walkers, including current users, away from the SPA.</p> <p>Fencing will prevent access to the beach from the coastal footpath except at designated points.</p> <p>Positive signage will highlight the importance of the SPA and request that dogs be kept on a lead on the beach across the frontage of the development.</p>	<p>No, given the proposed mitigation</p>
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**APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE  
CONSERVATION (NATURAL HABITATS & C.) (Continued)**

<b>PART D: Council's Conclusion</b>	
<p><b>CAN IT BE ASCERTAINED THAT THE PLAN OR PROJECT WILL NOT ADVERSELY AFFECT THE INTEGRITY OF THE EUROPEAN SITE(S)? YES/NO NO</b>          (Please provide explanation for answer given and attach any relevant supporting information)</p> <p>Two potential adverse effects on the Teesmouth &amp; Cleveland Coast SPA have been identified as a result of this project. These are disturbance due to construction and reclamation activities and increased recreational disturbance.</p> <p>Disturbance due to construction activities will be avoided by timing the works to occur over the summer period, thus avoiding the periods when wintering and migratory birds are present. Reclamation works are thought unlikely to create disturbance on the SPA above baseline conditions however precautionary measures such as additional screening will be agreed in advance as part of a construction methodology. No adverse effects are therefore anticipated.</p> <p>Disturbance due to an increase in recreational activities has the potential to increase the number of disturbance events causing birds to leave the area from the current, average levels of 2 events per day to up to 2.6 such events per day. The Local Authority is initiating proceedings to institute a ban on dogs off leads on the foreshore in front of the proposed development during the months of September – March, which will go some way towards removing the main cause of disturbance. A number of other measures, outlined in part C, above, will be provided as further mitigation to be implemented through the development.</p> <p>After consideration of the above potential impacts and the mitigation provided, the Council concludes that this project would not have any adverse effect on the Teesmouth &amp; Cleveland Coast SPA.</p>	
<b>Name of Assessing Officer:</b> Ian Bond	<b>Name of Supervising Officer:</b> Chris Pipe
<b>Job Title:</b> Ecologist	<b>Job Title:</b> Principal Planning Officer

<b>Signed:</b>	<b>Signed:</b>
<b>Date:</b>	<b>Date:</b>

**APPROPRIATE ASSESSMENT OF A PROPOSAL LIKELY TO HAVE A SIGNIFICANT EFFECT ON A EUROPEAN SITE  
CONSERVATION (NATURAL HABITATS & C.) (Continued)**

<b>PART E: Consultation with Natural England on Part D</b>	
<b>Natural England comment on conclusion:</b>	
<b>Name of NE Officer:</b>	<b>Job Title:</b>
<b>Signed:</b>	<b>Date:</b>

# BRITMAG



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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>24/09/2009</b>
	SCALE <b>1:13,000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2005/5254</b>	REV

## UPDATE REPORT

**No:** 2  
**Number:** H/2009/0352  
**Applicant:** Adrienne Simcock  
**Agent:** GWK Chartered Architects Charlotte Henry First Floor  
Cathedral Building Dean Street Newcastle upon Tyne  
NE1 1PG  
**Date valid:** 01/07/2009  
**Development:** Erection of primary school, nursery and associated works  
including car parking, drop off facilities, CCTV,  
landscaping, sports field and multi-use games area  
**Location:** LAND AT JESMOND GARDENS AND CHESTER ROAD  
HARTLEPOOL HARTLEPOOL

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2.1 Since the writing of the committee report 3 letters of objection have been received, 2 letters of no objection and 1 letter of comment. The period for publicity has now expired.

2.2 The letters of objection cite the following reasons:

1. Entrance and exit to the proposed school.
2. Jesmond Road is a busy road not just for local traffic but also for ambulances, fire engines and police cars. It is the main through road for people living in Clavering and Throston and also people commuting from Blackhall etc.
3. The Council need to re-think the proposed entrance and exit and keep our children and residents safe.
4. We already have a very bad parking problem and this will only get worse if the plans remain the same.
5. As an allotment holder, I feel that the building of the school could have a detrimental affect on use of the allotments, would fires be banned?
6. Would like to point out that once the school is built the playing field would then be in Grayfields by way of a gentlemen's agreement, this was quoted at the meeting by the designer, once the agreement ends where will the playing field be? Will you take more allotments away? Some security of tenure should be given to the allotment holders.

2.3 The concerns regarding the entrance have been covered in the original committee report.

2.4 It should be noted that Sport England have assessed the scheme and are satisfied with the provision of a half-sized junior playing pitch and a full-size Multi Use Games Area (MUGA).

2.5 The Assistant Director of Community Services has confirmed that Grayfields will be available for use by the school and has raised no concerns regarding the siting of the school adjacent to the allotments.

2.6 It should be noted that the school is proposed to reintroduce the pathway from Chester Road into the allotment estate bordering the west boundary of the

## UPDATE REPORT

school; this will assist in giving the allotment holders a more convenient access point. Additional benefit should arise from a more controlled environment which will overcome fly tipping which currently takes place on the existing 'dead end' allotment footpaths.

- 2.7 The Assistant Director of Community Services has assessed the scheme and has also stated that the use of an allotment will allow for an integrated approach between the school and a healthy food/gardening project and that opportunity to develop closer links with the allotment association regarding help and guidance are of obvious merit.
- 2.8 The letter of comment requested a copy of the plan, a response has been sent to the neighbour indicating where the plans can be seen and also stating that the application is to be presented to the Committee on the 7<sup>th</sup> October.
- 2.9 The objection letters do not raise any issues which alter the recommendation to approve the application subject to the conditions highlighted in the committee report.

# UPDATE REPORT

Application Reference No. : H/2009/0352  
 Site Address: LAND AT JESMOND GARDENS AND CHESTER ROAD HARTLEPOOL  
 TS26 OHR HARTLEPOOL Comments by: mr. mrs Loach  
 From:  
 20  
 jesmond gdns

ts24 8qs  
 Submission: Objection  
 Comments: I would like to object yet aain about the proposed entrance for the new school. As stated before I do not object to the school but I do strongly object to the entrance and exit, Jesmond Gdns is already a very busy road not just for local traffic but also for ambulances, fire engines and police cars.It is the main through road for people living in Clavering and Throston and also people commuting from Blackhall etc.

I feel that the council need to re-thinnk the proposed entrance and exit and keep our children and residents safe.

We already have a very bad parking problem and this will only get much worse if the plans remain the same.

\*\*\*\*\*  
 \*\*\*\*\*

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# UPDATE REPORT

*update*

CP

Gill Scanlon  
Planning Technician  
t: 01429 523741  
e: gill.scanlon@hartlepool.gov.uk

-----Original Message-----

From: Development Control  
Sent: 28 September 2009 12:37  
To: Development Control  
Subject: Comment Received from Public Access

Application Reference No. : H/2009/0352  
Site Address: LAND AT JESMOND GARDENS AND CHESTER ROAD HARTLEPOOL TS26  
OHR HARTLEPOOL  
Comments by: mr g hogarth  
From:

26  
tenby walk

hartlepool

ts260tg

Phone:

Email: gavin.hogarth@ntlworld.com

Submission: Objection

Comments: as an allotment holder on the chester road site i feel that the building of the school could have a detrimental affect on use of the allotments, would fires be banned altogether? would restrictions be placed on work such as rotovating? i would also like to point out that once the school is built the playing field would then be in grayfields by way of a gentlemans agreement. this was quoted at the meeting by the designer, once the agreement ends where will the playing field be? will you then take more allotments away? some security of tenure should be given to the allotment holders.

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*OK*

# UPDATE REPORT

67150

**Application No** H/2009/0352

**Proposal** Erection of primary school, nursery and associated works including car parking, drop off facilities, CCTV, landscaping, sports field and multi-use games area

**Location** LAND AT JESMOND GARDENS AND CHESTER ROAD

**Case Officer** Chris Pipe



I/We\* have received your letter and want to object/do not want to object\* to the proposal.

I/We\* want/do not want\* to have the chance to speak to the Committee of Councillors if it is asked to consider this application.

Please use the space below to explain your concerns/reasons for objecting to the proposal.

*We are concerned about the amount of traffic which will be generated in an already very busy road. Parking is already a problem.*

SCANNED

24 SEP 2009

If you need more space, please continue over or attach additional sheets to this letter.

<b>Name (Please print)</b>	INGA FERGUSON	Mr/Mrs/Miss/Ms*
<b>Address</b>	139 CHESTER ROAD	
<b>Date</b>	19 9 09	
<b>Telephone number</b>	01429 270751	
<b>Email address</b>		

**Nb** - It is not essential that we have your telephone number but it will help us if we need to contact you

\* Please delete as appropriate

For Official Use Only	
No objections	
Objections	<input checked="" type="checkbox"/>
Comments	
Petitions	
No. of signatures	
For/Against	
Wishes to speak	
Entered in computer	

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5 of 5

# UPDATE REPORT

*update*

67189

**Application No** H/2009/0352

**Proposal** Erection of primary school, nursery and associated works including car parking, drop off facilities, CCTV; landscaping, sports field and multi-use games area

**Location** LAND AT JESMOND GARDENS AND CHESTER ROAD

**Case Officer** Chris Pipe



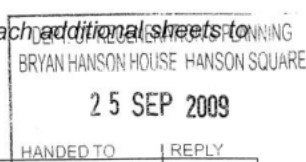
I/We\* have received your letter and want to object/do not want to object\* to the proposal.

I/We\* want/do not want\* to have the chance to speak to the Committee of Councillors if it is asked to consider this application.

Please use the space below to explain your concerns/reasons for objecting to the proposal.

Please forward me A set of  
Plans of what you are going to  
Build, what structures you intend,  
to see how you new construction affects  
what I have. And then I will forward to  
you my comments ~~and I will be happy to~~.

If you need more space, please continue over or attach additional sheets to this letter.



<b>Name (Please print)</b>	S. S. S. S.
<b>Address</b>	106 RABY GARDENS
<b>Date</b>	24/9/09
<b>Telephone number</b>	427393
<b>Email address</b>	

**Nb** - It is not essential that we have your telephone number but it will help us if we need to contact you

\* Please delete as appropriate

For Official Use Only	
No objections	<input checked="" type="checkbox"/>
Objections	<input type="checkbox"/>
Comments	<input type="checkbox"/>
Petitions	<input type="checkbox"/>
No. of signatures	<input type="checkbox"/>
For/Against	<input type="checkbox"/>
Wishes to speak	<input type="checkbox"/>
Entered in computer	<input type="checkbox"/>

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5 of 5

## UPDATE REPORT

**No:** 3  
**Number:** H/2009/0390  
**Applicant:** Chase Property Developments  
**Agent:** Savills Mr T Adey Fountain Court 68 Fountain Street  
Manchester M2 2FE  
**Date valid:** 27/07/2009  
**Development:** Application to remove planning conditions on planning permission references EZ2/3/OUT/519/85, H/FUL/0619/91 and H/2005/5921 relating to the amount of floorspace that can be provided, unit size and the range of goods permitted to be sold  
**Location:** TEESBAY RETAIL PARK BRENDA ROAD  
HARTLEPOOL

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### UPDATE

#### Background

This application appears on the main agenda at item 3. The recommendation was left open as consultation responses, including those of the Council's retail consultant were outstanding. The latter has now responded and her comments are discussed in the main body of this report.

#### **Consultation Responses**

No other further consultation responses have been received.

#### **Planning considerations**

The main planning considerations are considered to be 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.

#### **POLICY**

Government policy in relation to town centres and town centre uses such as retailing is set out in Planning Policy Statement 6: Planning for Town Centres. The Government's key objective for town centres is to promote their vitality and viability by planning for the growth and development of existing centres and by promoting and enhancing such centres and encouraging a wide range of services in a good environment, accessible to all.

The application site is an out of centre retail park. It is not located within a designated town or local centre and proposals for retail development need therefore to be carefully assessed. In accordance with PPS6 the applicant is required 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

## UPDATE REPORT

unacceptable impact on the vitality and viability of the town centre and nearby local centres and the site is accessible.

In line with PPS6 Policy Com 8 of the Hartlepool Local Plan 2006 advises that the preferred locations for retail development are in sequential order of preference :

- Within Hartlepool Town Centre
- Edge of centre sites
- The out of centre Victoria harbour regeneration area
- Other out centre locations accessible by a choice of means of transport and which offer significant regeneration benefits.

The application site, an out of centre site is therefore fourth in the hierarchy of preference.

Again in line with PPS6 policy Com8 also requires proposals for retail development located outside the primary shopping area, in the town centre, to demonstrate there is a need for the development, that the scale is appropriate and that a sequential approach has been followed.

In support of the application the applicant has produced a retail assessment. The assessment concludes that:

- There is a need for the development
- The scale is appropriate
- The site is accessible
- There are no sequentially preferable sites available.
- That there will be little impact on the town centre from the proposed development.
- The site is sustainable and accessible.
- It would contribute to investment in the town, employment and regeneration.

The 2009 Hartlepool Retail Study undertaken by Drivers Jonas on behalf of Hartlepool Borough Council was completed in August 2009. The Study is the subject of a separate report also on this agenda. It concludes:

- There is a higher than average number of vacant units in the Town Centre, and vacancy rates are a major issue for Hartlepool.
- There is insufficient expenditure in order to justify further retail floorspace.
- Extreme caution should be exercised in permitting new floorspace in locations outside the Town Centre and Local Centres within Hartlepool.

In light of the conclusions of the retail study any retail proposal must be approached with caution and must be supported by a robust case. The Council's retail adviser has examined the case presented by the applicant in detail. She considers that the need for the development has not been demonstrated, that the applicant has failed to demonstrate that there are no sequentially preferable sites available and that

## UPDATE REPORT

there will be no adverse impact on the town centre or any existing centre as a result of the development.

It is not considered that the applicant has demonstrated a need for the development, and in the unlikely event of need being established, there are a number of sequentially preferable sites available in the Town Centre, where vacancy rates are a major issue, which might accommodate that need. There are, for example currently 24 vacant units in Middleton Grange Shopping Centre amounting to some 6131sqm of vacant floorspace (September 2009) including the unit formerly occupied by Woolworths.

In considering the applicant's position it should be remembered that the applicant recently obtained permission for a considerable extension at the retail park (H/2005/5921) which could be implemented. Whilst the applicant maintains that this scheme, and the related investment, cannot be progressed without the additional floorspace and flexibility currently sought, he has provided little detailed evidence to support this. It is clearly the applicant's intention to achieve flexible permissions which would result in a development which would be more attractive to a wider range of retailers. Notwithstanding the control which would be afforded by the conditions suggested by the applicant any permission allowed on the basis sought by the applicant would allow a degree of flexibility in retail terms which potentially could significantly affect the vitality and viability of the town centre and other centres. Whilst the applicant maintains he is primarily targeting retailers who would not, or do not, want to locate in Hartlepool Town Centre such a development would clearly potentially provide an attractive alternative to the town centre for all retailers seeking to locate, or relocate, in Hartlepool. Retailers who might otherwise locate in vacant units available in the town centre may choose to locate at Tees Bay and similarly existing town centre retailers may choose to relocate to Tees Bay. The traders at the retail park would also potentially divert considerable trade from the existing town centre traders. This is in a context where shopper surveys, recently undertaken in connection with the Hartlepool Retail Study, suggest that since 2001 the town centres market share has reduced by 10%. It is considered the development would be likely to have an adverse impact on investor and retailer confidence in the town centre, which is the priority for new retail development to the further detriment of the vitality and viability of the town centre. Furthermore a permission here would set a precedent making similar proposals on other sites more difficult to resist. The physical regeneration and employment benefits are acknowledged but the potential harm to the town centre arising from the development significantly outweighs the benefits and our retail consultant concludes that "for potential short term gains, the proposals would be likely to be harmful to the long term vitality and viability of the town centre, which must be the Council's priority for investment".

The applicant has suggested that by implementing the extant permissions (H/2005/5921) and (H/FUL/0101/04) and taking advantage of existing permitted development rights to subdivide units and insert small mezzanine floors he could contrive to achieve a similar "fall back" position in retail terms to that proposed in the current application. This is an argument the applicant has previously suggested that he will advance at appeal and which is a material consideration.

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Given the limitations of existing permissions (which mean that some of the existing units are restricted from selling food and any unrestricted retailing would be spread over a number of units rather than consolidated), the limitations of permitted development rights (which for example would not allow for external alterations) and the logistical/organisational/contractual challenges the “fall back” position would appear to present, it is not clear that this “fall back” position is one of strength. At the moment for example the units where unrestricted or convenience retailing could be undertaken, if the relevant extant permission has been lawfully implemented (H/FUL/0101/04), are split between three different units. The advice of our retail consultant is that this situation is a very different proposition in retail terms to that which could result from the consolidation of the unrestricted floorspace in a single unit, which could attract a major retailer, if the current application were permitted. She advises therefore that limited weight should be attached to any argument that a strong “fall back” position exists. The fact that the applicant has sought to pursue the current application rather than initiate a process which he maintains would achieve a similar outcome is again perhaps indicative of the problems with this “fall back” position.

### HIGHWAYS

Traffic & Transportation have advised that they have no objections to the proposal. Access, car parking and cycle parking details would need to be conditioned and a legal agreement required to secure developer contribution for a cycle link and secured a travel plan. The applicant has in fact offered this.

In highway terms subject to conditions and appropriate legal agreements the proposal is considered acceptable.

### FLOODING

The site lies within Flood Zone 1 which is a designation indicating a low risk of flooding and this has been confirmed by the applicant's own Flood Risk Assessment.

No objections have been raised on flood risk grounds by our Engineering Consultancy or the Environment Agency. A condition would be required requiring the approval of the details of surface water drainage.

It is considered that appropriate conditions could be imposed were members minded to approve the application and therefore in flood risk terms the proposal is considered acceptable.

### IMPACT ON THE AMENITY OF NEIGHBOURS

The site is an existing retail park with no nearby residential neighbours, similarly commercial neighbours are remote. It is not considered that the proposed development would adversely affect the existing amenity of any residential or commercial neighbours.

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### CONSERVATION ISSUES

It is not considered that the proposal represents a risk to designated sites and there is only a limited possibility of damage and disturbance being caused to protected species, in this case breeding birds. Natural England and the Council's Ecologist have raised no objections to the proposal.

The Ecologist has nonetheless asked that any detailed development take account of the pond along Brenda Road, the belt of semi mature trees and allow for additional tree planting. It is considered that appropriate conditions could be imposed to safeguard and enhance any biodiversity interests on the site were members minded to approve the application.

### CONCLUSION

In terms of retail policy the applicant has failed to demonstrate that there is a need for the development, that there are no more suitable or viable sites within or on the edge of the town centre and that there will be no adverse impact on the town centre or any existing centre. The proposed development includes provision for retail floorspace of a scale and form that could be accommodated in the town centre. It would potentially be harmful to the prospects of attracting new development and retailers to the town centre where vacancy rates are already a major issue. A permission here may revitalise the fortunes of Teesbay Retail Park but potentially could have a significantly detrimental impact on the vitality and viability of the Town Centre in already uncertain economic times. The proposal cannot therefore be supported.

### **RECOMMENDATION- REFUSE** for the following reasons:

1. The application proposals fail to demonstrate quantitative or qualitative need for the development in accordance with the requirements of Policies Com 7, Com 8 and Com 9 of the Hartlepool Local Plan 2006 and PPS6.
2. The application proposals fail to demonstrate compliance with the sequential test in accordance with the requirements of Policies Com 7, Com 8 and Com 9 of the Hartlepool Local Plan 2006 and of PPS6.
3. The application proposal provides insufficient information to analyse the impact of this development on the town centre in accordance with the requirements of Policies Com 7, Com 8 and Com 9 of the Hartlepool Local Plan 2006 and PPS6.
4. The application would be likely to have an adverse impact on investor and retailer confidence in the town centre, which is the priority for new retail development and the refurbishment of existing retail properties and would therefore be detrimental to the vitality and viability of the town centre contrary to Policies Com 7, Com 8 and Com 9 of the Hartlepool Local Plan 2006 and the requirements of PPS6.

## UPDATE REPORT

**No:** 4  
**Number:** H/2009/0493  
**Applicant:** Mr K JOHNSON CARMEL ROAD SOUTH DARLINGTON  
DL3 8DW  
**Agent:** Jackson Plan Mr Ted Jackson 7 Amble Close  
HARTLEPOOL TS26 0EP  
**Date valid:** 08/09/2009  
**Development:** CHANGE OF USE FROM OFFICES (A2) TO HOT FOOD  
TAKEAWAY (A5)  
**Location:** 88 YORK ROAD HARTLEPOOL

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### UPDATE

#### Background

4.1 This application appears on the main agenda at item 4.

4.2 The recommendation was left open as a substantial period of time for representations was still outstanding.

#### Additional Representations received

4.3 At the time of writing, in addition to the objection referred to in the main report, two additional letters of no objection and one letter of support have been received.

4.4 The person supporting the application raises the following issues:

- Too many shops are empty
- Competition is healthy, increasing choice to the benefit of the consumer.

4.5 The time period for representations expires on 12<sup>th</sup> October 2009 after the meeting.

#### Planning Considerations

4.6 The main planning considerations are policy, impact on the amenity of neighbours and highways.

#### POLICY

4.7 The site lies within the defined town centre in an area where takeaway uses (A5) are acceptable in principle. It lies within a commercial frontage that includes an estate agency, a shop, and a vacant amusement arcade. Whilst there are other takeaways in the vicinity, it is not considered that an additional takeaway would have a significant impact on the form and function of this part of the town centre.

## UPDATE REPORT

### IMPACT ON THE AMENITY OF NEIGHBOURS

4.8 The application site is located within a largely commercial area where any residential use is restricted to flats above shops. Whilst other residential properties fringe the town centre in this area they are located a good distance away, with intervening commercial properties, and would not be directly impacted upon by the use of the premises. The Head of Public Protection has been consulted and has not objected to the proposal.

4.9 Members will note the recent appeal decision in relation to the use of the premises as a public house and restaurant. The Inspector dismissed that appeal considering that development would harm the living conditions of those living nearby. It was the introduction of a public house use (A4) into this area, with its attendant problems of noise, disturbance and congregation however that caused the Inspector particular concern. It is considered that a takeaway use, whilst adding to activity, would not do so to such an unacceptable degree.

4.10 It is proposed to impose appropriate conditions restricting the hours of operation of the premises and requiring appropriate ventilation equipment. It is considered with these conditions that the use of the premises as a takeaway would not unduly affect the amenity of any residential neighbours.

4.12 Similarly it is not considered that the proposed use would unduly affect the operations of neighbouring businesses, one of which is also in the applicant's ownership. An objection has been received from the occupier of a nearby business that there are already sufficient takeaways in the area, in relation to rubbish and increased security risk. As previously discussed the site is located in an area where a takeaway use is acceptable in principle. The issues of rubbish and security are ongoing ones in the town centre and it is considered that it would be difficult to resist a single takeaway on these grounds.

### HIGHWAYS

4.13 The site has no off street parking available and is located close to the junction of York Road and Victoria Road. Traffic & Transportation have raised concerns in relation to the increased vehicular activity and parking, associated with the proposed use, and its impact on the junction. However they consider that the proposal would be difficult to resist given its location in the town centre. In order to address these issues however they have recommended that the traffic regulation order be amended to prohibit waiting, loading or unloading close to the junction and the provision of guard rails. An appropriate condition is proposed.

Members will note again the recent appeal decision on the site where the highway reason for refusal, was not upheld by the Inspector. It is considered that with the proposed condition highway concerns can be addressed.

### CONCLUSION

4.14 The proposal is considered acceptable and is recommended for approval.

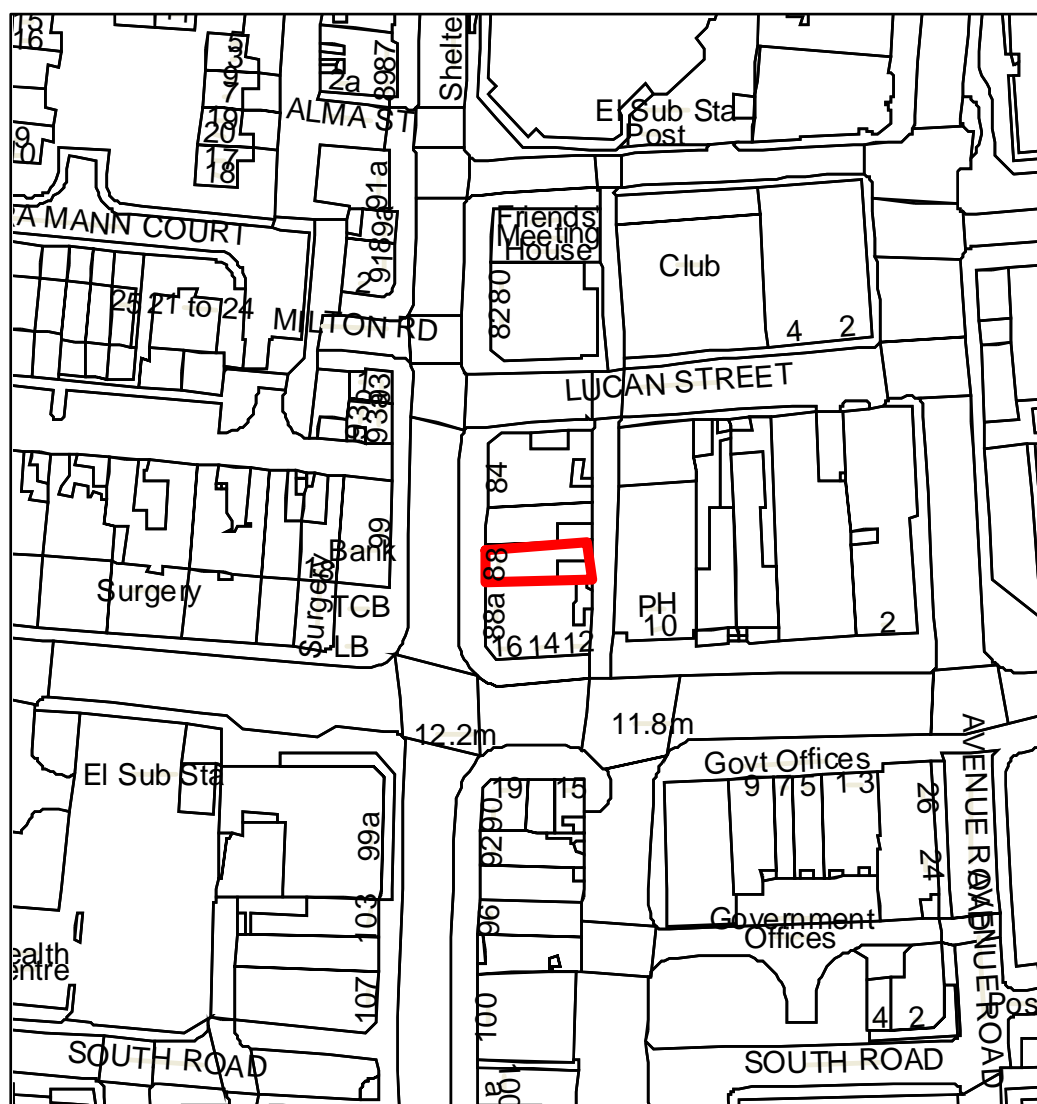
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**RECOMMENDATION - APPROVE** subject to the consideration by the Development Control Manager of any further representations received before the expiry of the time period for representations and subject to the following conditions;

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 occupation of the residential accommodation above the takeaway shall be restricted to the owner of the takeaway, or a person employed in the takeaway, and their dependents.  
As indicated by the applicant and in the interests of the amenity of future residents.
3. 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.
4. The development hereby approved shall not be brought into use until a traffic regulation order on York Road has been amended and guard rails provided on York Road in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority unless otherwise agreed in writing with the Local Planning Authority.  
In the interests of highway safety.
5. The premises shall not be open to customers, including for customer telephone orders and deliveries, between the hours of 24:00 hours and 09:00 hours on any day.  
In the interests of the amenities of the occupants of neighbouring properties.

# UPDATE REPORT

## 88 YORK 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>24/09/2009</b>
	SCALE <b>1:1000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2009/0493</b>	REV

## UPDATE REPORT

**No:** 6  
**Number:** H/2005/5254  
**Applicant:** Starford Holdings Ltd Suites 7b and 8b 50 Town Range Gibraltar  
**Agent:** SCA Planning Lazenby House St Mongahs Court Copgrove Harrogate HG3 3TY  
**Date valid:** 30/03/2005  
**Development:** Outline application for residential development open space and associated means of access (AMENDED SCHEME)  
**Location:** BRITMAG LTD OLD CEMETERY ROAD HARTLEPOOL HARTLEPOOL

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### Introduction

6.1 Since the original report was prepared further comments from the Health and Safety Executive (HSE), Natural England (NE), RSPB, English Heritage (EH), Environment Agency (EA) Headland Parish Council (HPC) Durham Heritage Coast Partnership (DHCP) and Cleveland Police (CP) have been received. Their comments are as follows:

- a. HSE have confirmed that PADHI+ is the vehicle for advice from them. As indicated in the original committee report this concludes that the HSE would not advise against the development.
- b. NE conclude that the proposed development will be likely to have a significant effect on the SPA and Ramsar site and has the potential to cause damage to or disturbance to the SSSI. However welcomes this further amended scheme and congratulates the applicant for adopting a truly sustainable approach to issues of climate change, rising sea levels and coastal squeeze relating to statutory wildlife sites. Consider outstanding matters of concern surrounding disturbance impacts on the foreshore can be satisfactorily mitigated including a Dog Control Order. They will comment on the revised Appropriate Assessment imminently.
- c. RSPB confirm that they consider the proposal will no longer result in the loss of SPA/Ramsar site habitat because of coastal squeeze and strongly supports the constructive approach taken by the applicant in this respect. Still considers the amended proposals have the potential to adversely affect the SPA/Ramsar site as a result of recreational disturbance and is not sufficiently confident at this stage that the mitigation measures will be effective.
- d. English Heritage confirm that they have no substantive observations to make and is content to defer to the Tees Archaeologist. Any earlier comments would however still apply.
- e. EA have pointed out in relation to flood risk that any surface water drainage system should consider the potential impacts of tide-locking.

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If it is known to occur there is a risk that the surface water drainage system will not function at its intended capacity. Further any proposals for flood defences including dune management should be undertaken in consultation with the Coastal Protection Agency (HBC). In relation to biodiversity issues they are satisfied that the issues are being pro - actively addressed by the developer in full consultation with NE, RSPB, and the LPA.

f. HPC confirm that no comment was made regarding this application at its meeting on 29 September apart from concern over future alterations to the access roads.

g. DHCP are pleased with the revised proposal and comment that the dog walking figures do not take into account increased use of the coastal footpaths as they are connected. Ask for clarification on the future of the pier.

h. CP recommends that the development seeks to achieve Secured by Design accreditation.

6.2. No further letters have been received as a result of the outstanding publicity which has now expired.

### Planning Considerations

6.3. Discussions have continued with the applicant and consultees since the original report was prepared. These have related primarily to concerns about recreational disturbance to birds on the beach and the terms of any legal agreement

6.4. In the light of concerns from NE and RSPB about existing levels of disturbance on the beach relevant officers in the Council have started to progress the imposition of a Dog Control Order on the beach. This would seek to prevent dogs being let off leads on this section of the beach during the months of September to March. This would be under the terms of the Council's existing duties in relation to protecting these areas.

6.5. Acknowledging this and that the development has the potential to increase disturbance as it comes on stream by increasing the population of the area the applicant has agreed in principle to be responsible for new signage and to alert all new purchasers of houses on the site of the Dog Control Order. Further the applicant will fund monitoring at agreed times as the development progresses and when complete and to pay the costs of any changes that may be necessary. This could include making a complete dog banning order if necessary.

6.6. Your officers believe that these measures will deal with the concerns of both NE and RSPB. It is your officers view that potential disturbance derived from the reclamation and removal of redundant infrastructure and the construction of the 'longstop' coastal defence can also be mitigated against.

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Final comments on this are however awaited and an update will be provided at the meeting

6.7. The issues raised by the EA and HPC have been largely addressed in the main report. In relation to the question of tide-locking, Northumbrian Water have raised no objections to the scheme and the Council's Engineering Consultancy consider that any issues can be adequately dealt with through the detailed design of the drainage system.

6.8. It appears that a part of the draft Appropriate Assessment was omitted when the report was printed. A complete version of the Assessment is attached with this report.

6.9. Turning then to the outstanding issues of planning gain and the S106 agreement the following has been proposed for those matters that cannot adequately be conditioned:

a) Maintenance of the ecological/dune areas – this would relate to maintaining the sand fencing and tidying up of litter or damage. It is suggested that these works could be carried out by a management company funded from a levy on occupiers of the housing on site or by the Council on the basis of a commuted sum payment. Given the difficulties of defining costs on the basis of an outline application it is considered that the final arrangements should be determined at the reserved matters stage if permission is granted and the commuted sum option is eventually preferred.

b) Ecological mitigation – this would be as outlined in 5 above.

c) Formal off site open space/play contribution – it has been agreed that a sum of £250 per dwelling will be provided to improve/provide new facilities close to the site. It is suggested that this would be payable in two stages, one on commencement of the development and the other when half the development is complete.

d) On site maintenance of open space – this would be achieved as for the maintenance of the ecological/dunes area

e) Provision and maintenance of the coastal footpath – it has been agreed that the full provision of the path and any necessary temporary diversion will be met by the developer. This will need to be included in the agreement as it may be located on land in part outside the application site owned by the Council. A sum of £45,000 has been earmarked for future maintenance including any related furniture.

f) Cemetery wall – the applicant has suggested that the rebuilding of the whole of the cemetery wall would be carried out by the developer under licence.

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g) Affordable housing – a level of 10% has been agreed throughout the site. Each phase will include 10% unless otherwise agreed to encourage pepper potting.

h) Lighting of the Brus Tunnel – the developer will pay for this. This will need to be done as the first houses are occupied.

i) Bus stop improvements – a total of £15,000 has been agreed towards the upgrade of nearby bus stops.

j) Local labour agreement – the applicant is happy to agree to the local labour agreement provisions that the Council seeks to promote in all new major developments.

k) Decontamination – the applicant is happy to include any scheme for the decontamination of the site as part of the agreement.

l) Initial site clearance – the applicant will commit to submit a scheme for the initial clearance/levelling of the site within 1 month of any permission and to implement the scheme within 3 months of its agreement.

6.10. It is anticipated that a revised draft of the heads of terms of the S106 agreement will be available for the meeting.

6.11. In the light of the above it is considered that the proposed development is satisfactory and it is recommended that Members indicate that they are minded to approve the application subject to the broad terms of the S106 agreement outlined above and the conditions outlined below.

**RECOMMENDATION** – Minded to APPROVE subject to a S106 agreement in the terms outlined in the report and the following conditions. Further that the Planning Inspector be requested to consider the latest amendments positively at the impending Public Inquiry into the development of the site.

1. Application for the approval of the reserved matters referred to below must be made not later than the expiration of five 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 layout, scale, appearance of the building(s) and landscaping (herein called the "reserved matters") shall be obtained in writing from the Local Planning Authority.  
To clarify the period for which the permission is valid.

## UPDATE REPORT

3. Save for the area of Enhanced Dune Management and associated planting shown within area A of the Illustrative Concept Master Plan, the Master Plan and details of the building heights submitted with the application shall be treated as being for illustrational purposes only and shall not be taken as an approval by the Local Planning Authority of the layout of the site, the disposition of buildings thereon or building heights. Such details shall be considered as part of the reserved matters application(s) required by condition 1.  
For the avoidance of doubt and to clarify the extent of the permission.
4. The permission hereby granted shall permit the phased development of the site and unless otherwise indicated all other conditions shall be construed accordingly. If the site is developed on a phased basis the applicant shall provide with each phase the reserved matters required to be submitted with that phase and any other relevant details required by any of the other conditions below for approval by the Local Planning Authority.  
To clarify the extent of the permission.
5. Within 1 month from the grant of this permission a scheme indicating how the the application sites will be cleared and levelled as an interim measure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the site shall be cleared and levelled in accordance with approved scheme within 3 months of the date of approval of the scheme unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of visual amenity.
6. Notwithstanding the submitted details and the provisions of condition 4 no development shall take place unless in accordance with a mitigation scheme for the protection of breeding birds and other ecological receptors to be first submitted to and approved in writing with the Local Planning Authority.  
To conserve protected species and their habitat.
7. Unless otherwise agreed in writing notwithstanding the provisions of condition 4 no development shall commence until a scheme for the fully detailed final design and extent of the proposed longstop defence works including a programme of works has been submitted to and approved in writing by the Local Planning Authority. The approved longstop defence works shall be carried out in accordance with the approved details and prior to occupation of any dwelling within any of the agreed phases where the longstop is to be provided, unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the longstop defence works are provided in a satisfactory manner.
8. Unless otherwise agreed in writing by the Local Planning Authority a scheme for a designated construction corridor in connection with the construction of the approved longstop defence works shall be submitted to and agreed in writing with the Local Planning Authority before works on its construction commence. Equipment to be used during these construction works shall be tracked excavators or soft - tyred excavators only, unless otherwise agreed in writing by the Local Planning Authority.

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- In the interests of the protection of the SPA.
9. Unless otherwise agreed in writing with the Local Planning Authority the construction of the approved longstop defence works shall only take place between April and October inclusively.  
In the interests of protection of wintering waterfowl and migratory species.
  10. Notwithstanding the provision of condition 4 a Habitat Restoration and Management Plan for the Enhanced Dune Management and associated planting area identified in area A on the submitted Illustrative Concept Master Plan, including a programme of works shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of enhancing the nature conservation value of the area.
  11. No development shall commence until a scheme for the provision of the coastal footpath/cycleway including access points, any necessary temporary diversions during the construction stage and signage to the beach shall be submitted to and agreed in writing by the Local Planning Authority; thereafter the approved scheme shall be implemented in accordance with a programme of works to be agreed with the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of providing recreational routes and in the interests of the protection of the SPA.
  12. 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.  
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)].
  13. The development hereby permitted shall not be commenced until 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

## UPDATE REPORT

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:
  - a) human health,
  - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
  - c) adjoining land,
  - d) groundwaters and surface waters,
  - e) ecological systems,
  - f) archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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)].

14. The development hereby permitted shall not be commenced until 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.

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)].

15. 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.

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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)].

16. 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 15, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 16, 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 17.

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)].

17. 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)].

18. If as a result of the investigations required by conditions 13-17 above, landfill gas protection measures are required to be installed in any of the dwelling(s) hereby approved, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), none of the dwelling(s) hereby approved which incorporate gas protection measures shall be extended in any way, and

## UPDATE REPORT

no garage(s) shed(s), greenhouse(s) or other garden building(s) shall be erected within the garden area of any of the dwelling(s) without prior planning permission.

To enable the Local Planning Authority to exercise control to ensure land fill gas protection measures

19. No development approved by this permission shall be commenced until a scheme for the provision of surface water and foul water drainage works including flow attenuation and proposals for overcoming any capacity shortfall in the public sewers and pumping stations to which the development would connect has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

20. Prior to the commencement of any works on site, a settlement facility for the removal of suspended solids from surface water run-off during construction works shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained throughout the construction period.

To prevent pollution of the water environment.

21. Unless otherwise agreed in writing by the Local Planning Authority Roof drainage downpipes shall at all times be sealed at ground level to prevent the ingress of any contaminated water/run-off.

To prevent pollution of the water environment.

22. Unless otherwise agreed in writing by the Local Planning Authority prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

To prevent pollution of the water environment.

23. During the construction period, and where relevant afterwards, any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

To prevent pollution of the water environment.

24. No development approved by this permission shall be commenced until a scheme for the improvement and/or extension of the existing sewerage system has been agreed submitted to, and approved in writing by, the Local Planning Authority. No buildings hereby permitted

## UPDATE REPORT

- shall be occupied until such improvements and/or extensions have been fully commissioned in accordance with the approved scheme.  
To prevent pollution of the water environment.
25. Notwithstanding the submitted plans, details of the siting and design of an emergency vehicular access to serve the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented after the occupation of 50 dwellings and retained in accordance with the approved details.  
In the interests of highway safety.
  26. The Brus Tunnel shall not be used by vehicular traffic unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of highway safety.
  27. The development layout shall be designed to facilitate a bus service, unless otherwise agreed in writing by the Local Planning Authority.  
To promote alternative means of access
  28. Unless otherwise agreed in writing by the Local Planning Authority no dwelling hereby approved shall be occupied until
    - 1) A scheme for lighting the Brus Tunnel including a programme for implementation has been submitted to and approved in writing by the Local Planning Authority
    - 2) A scheme for traffic regulation orders and traffic calming measures on Old Cemetery Road including a programme for implementation, has first been submitted to and agreed in writing by the Local Planning Authority.
 Thereafter the development shall be carried out in accordance of the approved details.  
In the interests of highway safety and in the interests of providing a safe pedestrian route.
  29. A scheme for pedestrian crossings on 1) West View Road and 2) Old Cemetery Road, including a programme for implementation shall be submitted to and agreed 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.  
In the interests of highway safety.
  30. Notwithstanding the submitted plans, final details for the roundabout, including sections and levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the roundabout shall be provided in accordance with the approved details.  
In the interests of highway safety and potential affect on a Listed Building.
  31. Unless otherwise agreed in writing by the Local Planning Authority, no more than 100 dwellings shall be completed and available for occupation prior to the completion of the link road and roundabout, which shall be available for use at all times thereafter.  
In the interests of highway safety.
  32. Prior to the occupation of the first dwelling, a 'Travel Plan Framework' shall be submitted to and agreed by the Local Planning Authority. Such a Travel Plan Framework shall clearly indicate the measures to

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be undertaken to reduce dependency on private cars associated with the development together with targets and timescales for the achievement of such measures. Thereafter a detailed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority and implemented within 6 months of the first occupation of the development. The Plan shall continue in operation at all times as approved unless otherwise agreed in writing by the Local Planning Authority.

In the interests of controlling vehicle congestion on the highway network.

33. A scheme for the provision of public art/landmark features, including a programme of works, which are identified on the hereby approved Master Plan 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.

34. A scheme to incorporate energy efficiency measures and embedded renewable energy generation in the dwelling houses hereby approved 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 encourage sustainable development.

35. No development or clearance shall take place until the applicant, or their agents or successors in title,
  - 1) Has secured the implementation of a programme of building recording and analysis in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the Local Planning Authority.

2) Has completed the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the Local Planning Authority. Where important archaeological remains exist provision should be made for their preservation in situ.

Thereafter this development/clearance shall be carried out in accordance with the approved scheme.

As the building is of historic significance the specified record is required to mitigate impact and the site is of archaeological interest.

36. A geophysical survey shall be submitted to and approved in writing by the Local Planning Authority, prior to any underground works/clearance, unless otherwise agreed in writing by the Local Planning Authority.

In the interests of mitigation for any unexploded ordnance.

37. The development hereby approved shall incorporate 'secured by design' principles. Details of proposed security measures including a programme of works shall be submitted and agreed in writing with the Local Planning Authority before any phase of the development hereby approved commences. The scheme shall be implemented in accordance with the approved details and shall be completed in

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accordance with the approved programme unless otherwise agreed in writing by the Local Planning Authority.

In the interests of crime prevention.

38. For the avoidance of doubt this permission relates to the provision of 480 dwelling, unless otherwise agreed in writing by the Local Planning Authority.

To clarify the permission.

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

**Subject:** APPEAL BY CRAIG WILKINSON, SITE AT LAND ADJACENT TO KIDDICARE DAY NURSERY, WARRIOR DRIVE, SEATON CAREW, HARTLEPOOL (H/2009/0154)

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**1. PURPOSE OF REPORT**

- 1.1 To advise members of the outcome of the above planning appeal.
- 1.2 The appeal was dismissed (copy attached). The Inspector concluding that the incidental open space, upon which the dwellinghouse was to be built, contributed positively to the area and that the proposed development would adversely affect the character and appearance of the area.

**2. RECOMMENDATION**

- 2.1 That members note the appeal decision.



## Appeal Decision

Site visit made on 1 September 2009

by **Kevin Ward BA (Hons) MRTPI**

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

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**Decision date:**  
**8 September 2009**

**Appeal Ref: APP/H0724/A/09/2106621**

**Land adjoining day nursery, Warrior Drive, Seaton Carew, Hartlepool  
TS25 1EZ**

- 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 Craig Wilkinson against the decision of Hartlepool Borough Council.
- The application Ref H/2009/0154, dated 27 March 2009, was refused by notice dated 22 May 2009.
- The development proposed is erection of detached dwelling with detached double garage.

### Decision

1. I dismiss the appeal.

### Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal site forms an area of incidental open space in a prominent position at the corner of Warrior Drive and Station Lane. Whilst the site is in private ownership, it provides a pleasant green and open aspect to the entrance to the housing estate served by Warrior Drive and contributes positively to the overall character and appearance of the area. The site appears to be well maintained and there is no evidence that its current use adversely affects the amenity of local residents. The proposal does not have special locational requirements which would justify the development of such an area of open space.
4. Whilst I am satisfied that the protected trees on the site would be retained, the open character of the site would be lost through the development of a dwelling and garage, and the enclosure of the proposed garden by a wall and fence. Views of the trees and the substantial hedge along the boundary with the adjoining dwelling would be significantly reduced.
5. I find therefore that the proposed development would adversely affect the character and appearance of the area and it would be contrary to Policies GEP1 and GN6 of the Hartlepool Local Plan.
6. Dwellings have been built on the opposite side of Warrior Drive. I understand however that this land was at least in part occupied by a clinic and that an

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outline planning permission for a healthcare centre, flats and parking had previously been granted. I also understand that the outline planning permission for residential development was granted prior to the adoption of the current Local Plan. In any case, the loss of open space on the opposite side of the road does not justify the harm that would be caused by the proposed development.

7. For the above reasons and taking account of other matters raised I conclude that the appeal should be dismissed.

*Kevin Ward*

INSPECTOR

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

**Subject:** APPEAL REF: APP/H0724/A/09/2106703/NWF  
H/2009/0171 - INSTALLATION OF A NEW  
SHOPFRONT INCLUDING ALTERATIONS TO  
PROVIDE SEPARATE ACCESS TO FIRST FLOOR  
FLAT - ALLSORTS, 33 THE FRONT, SEATON  
CAREW, TS25 1BS

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**1. PURPOSE OF THE REPORT**

- 1.1 To advise Members that the above appeal has been determined by the Planning Inspectorate by the written representations procedure.
- 1.2 The appeal was dismissed.
- 1.3 A copy of the Inspector's decision is attached.

**2. RECOMMENDATION**

- 2.1 That Members note the decision.



## Appeal Decision

Site visit made on 1 September 2009

by **Kevin Ward BA (Hons) MRTPI**

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

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Decision date:  
9 September 2009

**Appeal Ref: APP/H0724/A/09/2106703**

**33 The Front, Hartlepool, Cleveland TS25 1BS**

- 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 Miss Natalie Corbett against the decision of Hartlepool Borough Council.
- The application Ref H/2009/0171, dated 6 April 2009, was refused by notice dated 2 June 2009.
- The development proposed is new shop front / alterations to form separate entrance to living accommodation.

### Decision

1. I dismiss the appeal.

### Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Seaton Carew Conservation Area.

### Reasons

3. The frontages of many of the commercial properties along this stretch of The Front appear to have been altered and the appeal property is one of a very limited number where traditional shop front features have been retained. The existing shop front is symmetrical and well proportioned. The low stall-riser, and centrally located, recessed door are key features of traditional shop front design recognised by Supplementary Note 5 to the Hartlepool Local Plan. The shop front appears well maintained and I consider that, in its current form, it contributes positively to the street scene and the character and appearance of the Seaton Carew Conservation Area.
4. The addition of a second door to the side, the loss of the central door recess and the raising of the stall-riser would remove key traditional design features and the overall sense of symmetry. The proposed alterations would adversely affect the traditional character and appearance of the shop front and the positive contribution it makes to the overall street scene. I find therefore that the proposed development would fail to preserve or enhance the character or appearance of the Seaton Carew Conservation Area.
5. I accept that there may be some benefit in creating a separate access from the front to the flat above the shop. I also note the concerns of the appellant in relation to the safety implications of the low stall-riser. However, there is no substantive evidence to demonstrate that the existing shop front or access

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arrangements for the flat cause particular problems in terms of personal safety. The above factors are not therefore sufficient to outweigh the harm that I have identified. Nor is the fact that other properties in the immediate area have been altered recently.

**Conclusion**

6. For the above reasons and taking account of other matters raised, I conclude that the proposed development would conflict with Policies GEP1 and HE1 of the Hartlepool Local Plan and that the appeal should be dismissed.

*Kevin Ward*

INSPECTOR

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

**Subject:** APPEAL REF: APP/H0724/A/09/2099083  
H/2008/0616 - VARIATION OF CONDITION 2 OF  
PLANNING PERMISSION H/2006/0839 TO ALLOW  
OPENING ON A SUNDAY BETWEEN THE HOURS  
OF 10AM AND 11PM - SITE AT 132 OXFORD ROAD,  
HARTLEPOOL, TS25 5RH

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**1. PURPOSE OF THE REPORT**

- 1.1 To advise Members that the above appeal has been determined by the Planning Inspectorate by the written representations procedure.
- 1.2 The appeal was allowed subject to conditions.
- 1.3 A copy of the Inspector's decision is attached.

**2. RECOMMENDATION**

- 2.1 That Members note the decision.



## Appeal Decision

Site visit made on 3 July 2009

by **Don Rankin MRTPI**

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

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**Decision date:**  
10 September 2009

### Appeal Ref: APP/H0724/A/09/2099083

#### Pizza Palace, 132 Oxford Road, Hartlepool, Cleveland, TS25 5RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Adel Atfi against the decision of Hartlepool Borough Council.
- The application Ref H/2008/0616, dated 11 August 2008, was refused by notice dated 23 December 2008.
- The application sought planning permission for change of use to hot food takeaway without complying with a condition attached to planning permission Appeal Ref: APP/H0724/A/07/2039548, dated 5 July 2007.
- The condition in dispute is No (ii) which states that: the use hereby permitted shall not be open to customers outside the hours of 08:00 to 23:00 Mondays to Saturdays and at no other time on Sundays, Bank or Public holidays.
- The reason given for the condition is: to prevent any undue level of disturbance at unsocial hours, and to be consistent with a similar condition imposed at No. 143 Oxford Road.

#### Decision

1. I allow the appeal and grant planning permission for a change of use to a hot food takeaway at Pizza Palace, 132 Oxford Road, Hartlepool, TS5 5RH in accordance with application Ref H/2008/0616, dated 11 August 2008, without compliance with condition number (ii) previously imposed on planning permission appeal decision Ref: APP/H0724/A/07/2039548, dated 5 July 2007, but subject to the condition that the premises may only be open to the public between the hours of 08:00 to 23:00 Monday to Saturday; and 10:00 to 23:00 Sunday and Bank Holidays and to the other conditions attached to that permission so far as they are still capable of having effect.

#### Main issue

2. The main issue is the effect on the living conditions for nearby residents arising from additional opening hours.

#### Reasons

3. The appellant seeks to open from 10:00 to 24:00 hours seven days a week. This would be at variance not only with the condition restricting Sunday opening but also with the current permitted opening hours from 08:00 to 23:00 Monday through Saturday.
4. No.132 opens onto Oxford Road, a busy street where there are other shops and hot food takeaways. Although the rear yard of the shop does conjoin with No 37 Marlborough Street, the main objections are to increased duration of the

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activity leading to increased pedestrian and vehicular traffic movements, general disturbance and litter. Any effects arising from this increased activity would be from customers and largely confined to the Oxford Road frontage where there are a number of similar late and Sunday opening takeaways, not least at No.143 across the street where a recent permission for a limited period was granted for opening till 24:00 hours on Friday and Saturday, and 23:00 hours on Sundays.

5. With regard to extending opening hours to 24:00 I note the previous appeal decisions referred to by the Council (Ref: APP/H0724/A/06/2025540 & APP/H0274/AS/06/2028579) where the issue of late night opening was addressed. The common theme in these previous decisions was the effect of any disturbance resulting from opening after 23:00. Although the Head of Public Protection has not received any complaints regarding noise and disturbance I note the weight of objections which have been received in response to the current proposal to extend the hours and the very real concerns of local residents regarding antisocial behaviour in the Oxford Road Shopping Area. There is therefore good reason to assume that there was previously a problem arising from late night opening which is likely to continue. There are a number of houses in very close proximity to the appeal site the residents of which would be adversely affected by noise and disturbance from customers were the proposal to operate later into the evening.
6. Whilst I note the decision to permit opening to 24:00 at No. 143 for a similar use, that permission was for a limited period to gauge the effect on living conditions for local residents. I do not have details of all of the material considerations which led to that decision and I have considered this case on its merits. I conclude that an extension of late night opening to 24:00 would be likely to result in increased noise and disturbance to nearby residents.
7. With regard to Sunday opening there is no convincing evidence that the proposed opening of the Pizza Palace at No.132 on Sundays would have any greater effect than the other hot food outlets which now operate on a Sunday. No complaints have been received during the extended period of opening of No.143 or during that period regarding noise and disturbance from No.132. I accept that there has been concern regarding unauthorised opening of No.132 which is currently a matter of planning enforcement. Subject to a condition to restrict early morning opening on Sundays and bank holidays, which I regard as similar to Sundays for this purpose, I consider that there would not be adverse effects from the Sunday opening, and it would in consequence not be contrary to policies GEP1 and Com12 of the Hartlepool Local Plan 2006 (HLP).
8. For the reasons given above, and having regard to all other matters raised, I conclude that the closure at 23:00 hours remains appropriate to protect the living conditions for nearby residents but that Sunday opening would not so harm those living conditions. The appeal is therefore allowed subject the conditions below.

*Don Rankin*

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Inspector

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

**Subject:** APPEAL BY MR PETER FRANK SITE AT P E COACHES, USWORTH ROAD, HARTLEPOOL, TS25 1PD. (H/2009/0338)

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**1. PURPOSE OF REPORT**

- 1.1 A planning appeal has been lodged against the refusal of the Hartlepool Council to allow the change of use and alteration of offices to provide living accommodation for security purposes at the above site. The application was refused under delegated powers through the chair. It was not considered that a residential use in the location, an established industrial area, would be compatible with existing or future industrial and commercial uses in the area.
- 1.2 The appeal is to be decided by written representations and authority is therefore requested to contest the appeal.

**2. RECOMMENDATION**

- 2.1 That authority be given to officers to contest this appeal.

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

**Subject:** UPDATE ON CURRENT COMPLAINTS

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**1. PURPOSE OF REPORT**

1.1 Your attention is drawn to the following current ongoing issues, which are being investigated. Developments will be reported to a future meeting if necessary:

1. A neighbour complaint regarding the erection of a rear extension not built in accordance with the approved plans in Fulbeck Close.
2. A neighbour complaint regarding the untidy condition of a rear garden of an empty property in Ibrox Grove.
3. Officer monitoring recorded the erection of a two (2) metre high wall to the front of a house in Malpeton Road.
4. Officer monitoring recorded the display of advertisements on a hotel in Victoria Road.
5. Officer monitoring recorded the display of illuminated advertisements on two (2) commercial buildings in Church Street. The buildings are located in the Church Street Conservation Area.
6. Officer monitoring recorded the placing of chairs and tables on the highway outside a snack bar in Church Square.
7. Officer monitoring recorded the display of an advertisement on a retail outlet in Powlett Road.
8. A neighbour complaint regarding people receiving care and occupying a residential property in Northwold Close has been investigated. The number of people is less than six, and the level of care provided on balance demonstrated the people were living together as a single household. No material change of use was therefore involved.
9. An investigation has commenced regarding the change of use to establish waste transfer stations at two sites in Sandgate Industrial Estate.
10. A neighbour complaint raising concerns about formation of a car crossing at a property in Birchill Gardens.

11. Officer monitoring recorded the opening of take- away in Sydenham Road.
12. A neighbour complaint regarding non-compliance with conditions attached to a planning consent for a take-away in Murray Street.
13. A neighbour complaint regarding the erection of a domestic outbuilding in the rear garden of a property in Kirkstone Grove has been investigated. The building benefitted from 'permitted development rights' without the need to obtain planning permission.
14. An investigation has commenced regarding the fixing of barbed wire on the top of an existing rear boundary wall of a commercial building in Raby Road.
15. A neighbour complaint regarding alterations to a retaining wall in the rear garden of a property in Bluebell Way has been investigated. The works benefitted from 'permitted development rights' without the need to obtain planning permission.
16. Officer monitoring recorded the installation of a new shop front not in accordance with the approved plans in Navigation Point.
17. An investigation has commenced regarding a rear two storey extension not being built in accordance with the approved plans in Tankerville Avenue.
18. A neighbour complaint regarding the erection of a large domestic outbuilding in the rear garden of a property in Cowley Close.
19. A neighbour complaint regarding the erection of a conservatory to the rear of a residential property in Mardale Avenue.
20. An investigation has commenced regarding non-compliance with a condition to remove a temporary caravan attached to the planning consent for the erection of a new dwelling in Dalton Piercy.
21. Officer monitoring recorded the display of an illuminated advertisement on a public house in Victoria Road.
22. An investigation has commenced regarding the erection of a garden room in the rear garden of a property in Castleton Road.
23. An investigation has commenced regarding the erection of a rear garden fence in Gala Close.
24. A neighbour complaint regarding the display of an advertisement in the grounds of a hotel in The Cliff.

**2. RECOMMENDATION**

- 2.1 Members note this report.

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

**Subject:** HARTLEPOOL RETAIL STUDY 2009

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**1. PURPOSE OF REPORT**

To notify members that the Hartlepool Retail Study 2009 has been completed by Drivers Jonas, subject to minor editing.

**2. Background**

2.1 Earlier this year Drivers Jonas were commissioned to undertake a Retail Study for Hartlepool. A previous study had been undertaken in 2002 and then updated in 2005.

2.2 The 2009 report will form part of the evidence base supporting retail policies in the existing Local Plan and in the Council's emerging Local Development Framework.

2.3 A report will be made to the Portfolioholder highlighting the main findings of the Retail Study.

**3 Summary of the Retail Study**

3.1 The Study provides an assessment of the need for further development for retail uses up to 2026 (to correspond with the proposed Local Development Framework Plan period). It also addresses deficiencies in current provision and the capacity of existing centres to accommodate new development, particularly that of Hartlepool Town Centre.

**Recent Trends in Retail and Leisure**

3.2 The review demonstrates that retailing is a dynamic sector of the economy even during recession. However, developers and investors are now much more cautious of promoting retail development, particularly speculatively, and require greater certainty before investing.

**Shopper Surveys**

3.3 The shopper surveys have been used to identify the catchment area and market share, results show that:

- The Town Centre performs a vital function in providing a wide range of convenience and comparison goods and services facilities.
- A relatively low percentage of respondents use the Primary Shopping Area as their prime destination, however over half choose to do their main food shopping at Asda which is currently within the Town Centre Boundary as defined on the Local Plan Proposals map.
- Just over half of respondents chose to do their non-food shopping in Hartlepool Town Centre and at the Marina, however there is strong competition from competing centres and out of centre retailing.
- The choice and range of shops in the town centre is something which is felt that could be improved.

3.4 The surveys recorded that comparison leakage was more significant than convenience leakage, in particular to Middlesbrough with its greater choice and range of fashion goods.

### **Health of the Town Centre**

3.5 There are number of areas of major concern, most notably:

#### *Vacancy Rates*

3.6 There is a higher than average number of vacant units in the centre – indeed, the amount of vacant floorspace greatly exceeds that of the national average (as at June 2009). The observed increase in the number of vacancies arising in Hartlepool's Primary Shopping Area (most notably Middleton Grange) is of particular concern.

#### *Retail Hierarchy Positioning*

3.7 The town centre's ranking within the wider retail hierarchy is worsening, dropping 25 places since 2003/4. Over a ten year period, Hartlepool has been down-graded from a Sub-Regional Centre to that of a Major District and both South Shields and Stockton on Tees have overtaken Hartlepool in terms of their overall positioning within the selected hierarchy of centres.

#### *Quality of Representation*

3.8 Representation by convenience and comparison retailers is relatively good and Hartlepool largely provides a relatively attractive shopping environment, particularly in the Middleton Grange Shopping Centre. There is however a disproportionate number of low-end, value retailers present and demand, particularly from higher-end, quality, national retailers remains subdued.

#### *Retail Focus*

3.9 A large proportion of the town centre outside of Middleton Grange remains lacking in terms of a retail focus and is characterised by dead frontages in places and areas concentrating on night-time uses, perhaps to the detriment of the town centre's day-time image for visitors and shoppers. York Road, Church Street and Park Road as 'secondary locations' continue to struggle, particularly in terms of their ability to sustain long term occupancies and quality representation.

### **Need for Further Retail Floorspace**

#### *Convenience Sector*

- 3.10 It is estimated that there is a £40 million deficit in convenience goods expenditure (as at 2009). The adopted methodology is a cautious goods based approach that indicates this deficit will increase over the period to 2011. This is due to the development of commitments in the short and medium term and decline in population in Hartlepool over the longer term period and low growth in expenditure per capita.
- 3.11 There is insufficient expenditure in order to justify further floorspace in each of the years concerned. Drivers Jonas consider that extreme caution should be exercised in permitting new floorspace in locations outside the established centres within Hartlepool.

#### *Comparison Sector*

- 3.12 Because of the size of the committed out of centre developments at Trincomalee Wharf, Tees Bay Retail Park and that of the regeneration area Victoria Harbour, there is no capacity for new floorspace in Hartlepool, and no capacity is found in the Primary Catchment Area throughout the Plan period, even with increasing the market share.
- 3.13 At no point during the Plan Period, based upon an ultra-long expenditure growth rate, is there sufficient capacity for further comparison goods retail floorspace. Drivers Jonas consider that extreme caution should be exercised in permitting new floorspace in locations outside the established centres within Hartlepool.

### **Demand for New Floorspace**

- 3.14 Published demands are principally from lower/middle order retailers. The most notable factor regarding the retailers identified is the general absence of high quality, national retailers, particularly in relation to the high street fashion sector.

### **Conclusion**

- 3.15 There is a higher than average number of vacant units in the Town Centre.
- 3.16 There is insufficient expenditure in order to justify further retail floorspace.
- 3.17 Extreme caution should be exercised in permitting new floorspace in locations outside the Town Centre and Local Centres within Hartlepool.

## **4. RECOMMENDATION**

- 4.1 That Members note the findings of the 2009 Retail Study

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

**Subject:** RESPONSE TO DCLG CONSULTATION ON PLANNING POLICY STATEMENT 15 – PLANNING FOR THE HISTORIC ENVIRONMENT

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**1. PURPOSE OF REPORT**

- 1.1 To outline the response to the Department for Communities and Local Government (DCLG) regarding their consultation on Planning Policy Statement 15 – Planning for the Historic Environment.

**2. BACKGROUND**

- 2.1 The Government is reforming particular aspects of the heritage protection system. The white paper Heritage Protection for the 21<sup>st</sup> Century which was published in March 2007 set out its intention which are based on three central principles:
- The need to develop a unified approach to the historic environment
  - Maximising opportunities for inclusion and involvement
  - Supporting sustainable communities by putting the historic environment at the heart of an effective planning system.
- 2.2 A key area in supporting this white paper is the development of a new planning policy statement bringing together all aspects of the historic environment i.e. the built environment, archaeology and landscape. This will replace the existing Planning Policy Guidance Documents relating to the historic environment and archaeology.
- 2.3 The documents are currently out to public consultation in the form of a draft planning policy statement entitled 'Planning for the Historic Environment' accompanied by a note produced by English Heritage as a guide to support the implementation of the document. This report outlines the response of officers to those papers.

**3. SUMMARY OF THE DOCUMENT**

- 3.1 The document aims to deal with all types of heritage in a single document. It brings together an integrated approach to the historic environment with a single system for all heritage assets including listed buildings, scheduled ancient monuments and properties in conservation areas.
- 3.2 There is a greater emphasis on pre-application discussions than in previous advice and guidance. It suggests that such discussions should focus on evaluating the significance of the heritage asset. This will be of particular importance at an application stage when applicants will be required to submit a statement of significance alongside their application. Such statements will

highlight the important elements of an asset and be the basis for applications to develop or restore the asset.

- 3.3 The document encourages the promotion and valuing of the historic environment with this seen as an asset rather than a potential barrier to development. It emphasises the importance of the principles of sustainable development applying to the management of change in the historic environment.
- 3.4 Local authorities will be encouraged to develop Historic Environment Records which will be publicly accessible providing information on historic assets within their areas. For example this would take the form of a database providing information on listed buildings such as list descriptions and any other historic information, surveys or data that an authority might hold relating to a building.

#### **4 CONSULTATION**

- 4.1 The document is currently out to public consultation with views sought by 30<sup>th</sup> October. The full document can be viewed on the DCMS website.
- 4.2 Officers have viewed the document and in summary generally support the new policy in particular the proposals for pre-application discussions with local authorities. However it is felt that there are still some issues which need to be addressed in particular the additional burden that will be placed on local authorities in implementing the new policy in the preparation of Historic Environment Records. Further to this there will be a need to provide clear guidance on the requirements of statements of significance to ensure that there is a consistent approach both in the validation of applications and in the provision of information by applicants. The comments of officers can be found in Appendix 1 along with those of Tees Archaeology in Appendix 2.
- 4.3 These comments will be presented to the Portfolio Holder for agreement prior to their submission to the Department for Culture Media and Sport. This is an opportunity for this committee to provide any comments that they may wish on the policy.

#### **5 RECOMMENDATION**

- 5.1 That the Committee notes the report and the comments made by officers and provides comment, should it wish, on the policy to be presented to the Portfolio Holder for Community Safety and Housing.

## APPENDIX 1

**Response of officers from Hartlepool Borough Council****General comments on the policy**

Looking at the wider value of assets including undesignated historic assets; these are difficult to protect and somewhat confuse the aims of simplifying the process by their introduction within this policy. Although the acknowledgement of the importance of such items are welcomed there needs to be a clear definition of the values placed on those items which are designated and those which are undesignated.

The recurring reference to energy conservation does not take into consideration the value of embodied energy and there is a need to acknowledge this within the policy. The conversion of an existing building can be done so sustainably taking into consideration the energy and workmanship that has already gone into the construction of the property.

The policy doesn't take into account the support for small firms and positive development of building skills and craftsmanship which are an advantage of the heritage industry both through the restoration of properties and regeneration including new buildings within the historic environment. For example policy HE2.3 notes the positive contribution that the historic environment can have for regeneration encouraging tourism etc but there is no acknowledgement of the development of buildings conservation skills within this specialist sector.

**Response to questions**

*1. Does the PPS strike the right balance between advocating the conservation of what is important and enabling change?*

The policy does strike the right balance between advocating the conservation of what is important and enabling change. Enabling change through a national approach is to be supported but requires wide support and guidance from bodies such as English Heritage and CABE to assist applicants in their developments.

*2. By adopting a single spectrum approach to historic assets, does the PPS take proper account of any differences between types of asset (eg. are archaeological assets adequately covered)?*

A single spectrum approach to historic assets is a positive step to providing a balanced approach to all assets.

*4. Are the policies and principles set out in the PPS the key ones that underpin planning policy on the historic environment, or should others be included?*

The key ideas of investigation, pre-application discussions, assessing the significance of the building and protection with an assumption to retain buildings are strong policies underpinning the planning policy relating to the historic environment which are to be welcomed.

This is, however, quite an idealist approach and in particular the presumption that the HERS should be a one stop shop for applicants. At the moment these records are not the basis for in-depth research therefore there should be caution regarding the weight placed on it and an applicants ability to access it as this is not straightforward

and there are still other sources which would need to be used alongside it to carry out comprehensive research.

*5. Do you agree that it is the “significance” of a historic asset that we are trying to conserve?*

Yes, it should be the significance of an asset that is conserved – the document does apply a value based system to the planning process however it is acknowledged that it is very difficult to avoid placing values on an item.

*7. Does the PPS strike the right balance between the objectives of conserving what is significant in the historic environment and mitigating the effects of climate change?*

With regard to the balance between the objectives of conserving what is significant and mitigating the effects of climate change there is not enough emphasis placed on embodied energy. There is little mention of materials and workmanship already existing but only measures to take which could affect the historic significance. Existing work and embodied energy should always be taken into consideration when looking at the impact of climate change to an asset and in particular the sustainability of a proposal.

*8. Does the PPS make it clear to decision-makers what they should do and where they have more flexibility? Are there any risks or benefits you would like to highlight for the historic environment sector?*

There is always local interpretation of policies to individual circumstances. It would be difficult to put together a document which would cover all situations however there is a need for some clarity and guidance, perhaps alongside the document, over certain common development issues which can affect the character of an area and are common in many local authorities for example the definition of development in relation to replacement windows.

In addition a stronger environmental case for the retention of buildings should be provided supported by the positive impact this can have on the environment not only in terms of sustainability but also the enhancement of the environment generally.

*9 The draft PPS highlights the importance of ensuring that adequate information and evidence bases are available, so that the historic environment and the significance of heritage assets are fully taken into account in plan-making and decision-taking. At the same time we are concerned to ensure that information requirements are proportionate and do not cause unnecessary delays. Are you content we have the balance right? If not how would you like to see our policy adjusted? (Policies HE8 and HE9 are particularly relevant to this question.)*

Specifically in relation to HE8 this is ambitious and although it would be an ideal situation it is unlikely the professional support would be available to produce such information both from the point of view of availability of specialists who could provide such information and from a financial point of view in that many applicants would not be able to afford such advice. It is likely a substantial amount of support would need to be provided by local authority staff at a pre-application stage. In addition there would need to be clear guidance on the level of information which would be acceptable to validate an application.

HE9.2 As mentioned previously there would be a concern that there is a need to provide further advisors in a sector where assistance is already rare. In addition in

some cases this may place an additional financial burden on local authorities already pressured by efficiencies.

In relation to HE9.3 if no local amenity groups are present in the area this policy is very difficult to implement.

There is a need to emphasise embodied energy alongside climate change measures in particular in HE9.8(iii) as mentioned in general comments. Further to this within the terminology section there should be a definition of climate change along with a reference to the importance of embodied energy and a definition of this.

*10 In your opinion is the PPS a document that will remain relevant for at least the next 20 years? Do you see other developments on the horizon that have implications for the policies set out in the PPS?*

No, there should be evidence gathering to appraise how the policies are working and a review of the document at least every 5 years. It is likely that issues such as climate change are going to become increasingly significant and the document will need to recognise this and be updated accordingly.

*11 Do you agree with the conclusions of the consultation stage impact assessment. In particular, have we correctly identified and resourced any additional burdens for local planning authorities? Is the impact on owners/developers correctly identified and proportionate to their responsibilities?*

The costs appear to be grossly underestimated particularly given the weight of additional work which is being placed on local authorities not only in the provision of up to date information via the HER but also in relation to additional work that will be required in processing applications.

In relation to applicants providing statements of significant etc when calculations are made it should be remembered that some heritage assets are in negative value with no certainty that a decision would be forthcoming, in such instances it is unlikely that applicants would be able to invest the large amounts required to provide the information outlined in the document without the certainty of a positive decision at the end of the process. The costs provided seem, again to be underestimated.

### **Specific comments relating to policies**

HE6 there should be a clear outline of how this should be monitored and against what standards. Few authorities have baseline data available for all heritage assets upon which to make a measured judgement to enable the monitoring of the decline or enhancement of an environment or asset. In most cases opinions will be subjective.

HE10.2 In highlighting the loss of heritage assets this should include grade II listed buildings and conservation areas or at least properties which make a substantial contribution to a conservation area but are not listed.

HE11.1 As mentioned previously embodied energy should be included within assessments of sustainable development.

HE13 this is a positive step but it would appear difficult to enforce in practice, in particular the request of developers to publish information relating to development projects deposit this with relevant HERs and archives..

## APPENDIX 2

**Response of officers from Tees Archaeology**

Comments of Tees Archaeology on Consultation paper on a new Planning Policy Statement 15: Planning for the Historic Environment.

General comments and comparison to PPG 16.

- PPS 15 will replace Planning Policy Guidance Notes 15 & 16. I welcome the elevation of cultural heritage from these 'Guidance' documents to a Government 'Policy' document.
- PPG 16 released in 1990 outlined the importance of pre-application discussion and pre-determination archaeological evaluation. This will be carried forward into the new PPS 15.
- Another important aspect of PPG 16 was the statement in paragraph 8 that *'where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation'*. The new PPS takes a 'value' based approach to preservation to be balanced alongside other considerations such as *'social economic and environmental benefits'* (PPS 15, para 9.8). This new approach may mean that it is not possible for local authorities to protect archaeological remains that would have been preserved in the PPG 16 era.
- It is not clear what components of the consultation document will be carried forward to the finished policy.
- Many of the policies and associated guidance would benefit from the implementation of the draft Heritage Protection Bill (published in April 2008) but not yet included in Government's legislative programme.

### Comments on the Plan Making Policies

#### **Policy HE1. Evidence base for plan-making**

- I welcome the emphasis given to the role of the Historic Environment Records. HERs would however benefit from the implementation of the draft Heritage Bill making them a 'duty' of Local Authorities.
- HERs would also benefit from nationally agreed standards and benchmarks.
- I welcome the consideration of areas of archaeological potential in the development process. PPG16 did not go this far but limited archaeological involvement to sites where *'important archaeological remains may exist'* (para 21).

#### **Policy HE3. Local planning approach**

- There is no mention in this policy of Local Authorities including policies for the protection, enhancement and preservation of sites of archaeological interest in their Local Development Frameworks. There is however a reference to this in the English Heritage Practice Guide.
- Clarification is needed as to what form the local 'positive, proactive, strategy' should take. Should this be presented as a Supplementary Planning Document in support of the LDF?

#### **Policy HE4. Heritage assets and sustainable development**

- I welcome the recognition that reuse of historic assets contributes to sustainability and climate change objectives. However further guidance is needed on the quantification of this benefit.

**Policy HE6. Monitoring indicators**

- This policy along with the English Heritage Guidance lacks detail. There is no suggested guidance for performance indicators or benchmarks in relation to this policy.

**Policy HE7. Pre-application discussions and assessment**

- I welcome the emphasis on pre-application discussions and pre-determination evaluation. The policy given in HE1.3 regarding archaeological potential might usefully be repeated here. The policy should make clear that pre-application evaluation can also apply to buildings in the form of historic building analysis and exploratory opening up.

**Policy HE8. Information requirements for validation of applications for consent affecting heritage assets**

- This is a noble inclusion to the statement but its practicality is questionable as it is unlikely to be a cultural heritage expert who is responsible for validation. Many applications will be validated on the basis of presence or absence of documentation that may later be found insufficient following expert scrutiny.

**Policy HE9. Policy principles guiding the determination of applications for development relating to all heritage assets**

- This appears to be a very ambling policy which could do with some streamlining.
- HE9.7 and HE9.8 deal with balancing the need for development with its impact on heritage assets. I do not support this approach and believe that it will lead to the loss of historic assets that can currently be preserved by the planning system under PPG 16 by means of demonstrating national importance. As historic assets are irreplaceable there should be no justification for their loss.
- This value based approach is unlikely to be applied consistently and does not fit with the policy objective to '*adopt a consistent and up-to-date approach to conserving, the historic environment*' (PPS p. 25).

**Policy HE10. Additional policy principles guiding the consideration of applications for development related to designated heritage assets**

- I see no reason not to include Listed II buildings in HE10.2.
- I am pleased that 10.6 recognises that not all nationally important remains are currently designated and that these remains should be treated according to the same principles.

**Policy HE13. Policy principles guiding the recording of information related to heritage assets**

- Preservation by record is an important means of retrieving information about a heritage asset prior to its destruction. Some of the language, particularly in policy HE13.3 is unclear and would benefit from a re-write.

**Other Comments**

- P. 29 estimates a cost of £90,000 per annum to local authorities in relation to necessary enhancements to HERs. As there are 82 HERs to consider this means an additional cost per HER of £1097 per annum. I would anticipate that this is a severe underestimation and would barely cover two weeks of officer time.

**Consultation questions**

1. Does the PPS strike the right balance between advocating the conservation of what is important and enabling change?

The document seems to skirt the issue by putting all decision making in the hands of the local authorities without proper underlying principles about preserving that which is of importance. It appears to set up conflicts between conservation and development by introducing a value based system that is open to interpretation on a case by case basis.

2. By adopting a single spectrum approach to historic assets, does the PPS take proper account of any differences between types of asset (eg. are archaeological assets adequately covered)?

Reading the document as an archaeologist I felt that they were adequately covered but that buildings were perhaps not.

4. Are the policies and principles set out in the PPS the key ones that underpin planning policy on the historic environment, or should others be included?

Principal areas are Historic Environment Records, pre-determination discussion and evaluation and preservation of important remains in situ. I do not feel that preservation in situ is covered as strongly as it was in PPG 16.

5. Do you agree that it is the “significance” of a historic asset that we are trying to conserve?

Yes, but the document opens up this significance to threat by applying a value based system to the planning process.

8. Does the PPS make it clear to decision-makers what they should do, and where they have more flexibility? Are there any risks or benefits you would like to highlight for the historic environment sector?

This is the main problem with the document as similar circumstances might be treated differently by different authorities.

9. The draft PPS highlights the importance of ensuring that adequate information and evidence bases are available, so that the historic environment and the significance of heritage assets are fully taken into account in plan-making and decision-taking. At the same time we are concerned to ensure that information requirements are proportionate and do not cause unnecessary delays. Are you content we have the balance right? If not how would you like to see our policy adjusted? (Policies HE8 and HE9 are particularly relevant to this question.)

Appears to be reasonable.

10. In your opinion is the PPS a document that will remain relevant for at least the next 20 years? Do you see other developments on the horizon that have implications for the policies set out in the PPS?

No, I think that it should have a five year review. Implementation of the Heritage Protection Review would go some way to future proofing the system by making sure Local Authorities have a duty to provide a HER.

11. Do you agree with the conclusions of the consultation stage impact assessment. In particular, have we correctly identified and resourced any additional burdens for

local planning authorities? Is the impact on owners/developers correctly identified and proportionate to their responsibilities?

See other comments above.