

PLANNING COMMITTEE AGENDA



Wednesday 26th October 2005

at 10.00 am

in Committee Room B

MEMBERS: PLANNING COMMITTEE:

Councillors Allison, Belcher, Clouth, Cook, Ferriday, Flintoff, Hall, Iseley, Kaiser, Kennedy, Lilley, Morris, Richardson, M Waller, R Waller 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 28th September 2005 (attached)

4. ITEMS REQUIRING DECISION

- 4.1 Tree Preservation Order No 175 – 1 Meryl Gardens, Hartlepool – *Chief Solicitor and Director of Regeneration and Planning*
- 4.2 Planning Applications to be considered following site visits: - *Assistant Director (Planning and Economic Development)*
- | | | |
|----|-------------|----------------------|
| 1. | H/2005/5656 | Seaton Meadows |
| 2. | H/2005/5633 | Wynyard Estate |
| 3. | H/2005/5664 | Surgery Station Lane |

4.3 Further Planning Applications

- | | | |
|-----|-------------|-------------------------------------|
| 4. | H/2005/5679 | Tow n Square |
| 5. | H/2005/5680 | Tow n Square |
| 6. | H/2005/5548 | Plot 262 Wynyard Woods |
| 7. | H/2005/5320 | Brierton Moor House Farm |
| 8. | H/2005/5742 | 2 Bilsdale Road |
| 9. | H/2005/5754 | 48/50 Irvine Road |
| 10. | H/20055387 | 34 Grange Road |
| 11. | H/2005/5809 | Land to rear of 24-32 Ashwood Close |

4.4 Appeal by K Johnson, site at 86-88 York Road, Hartlepool – *Assistant Director (Regeneration and Planning)*

4.5 Appeal by Kingfield Developments, site at former Total Service Station, Powlett Road, Hartlepool – *Assistant Director (Regeneration and Planning)*

4.6 Land at Woodburn Lodge, Blakelock Gardens, Hartlepool – Planning Appeal Decision – *Assistant Director (Regeneration and Planning)*

4.7 Changes To The Development Control System – *Assistant Director (Planning and Economic Development)*

4.8 Update on Current Enforcement Related Matters – *Head of Planning and Economic Development*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

6. FOR INFORMATION

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of Monday 21st November at 9.30 am

Next Scheduled Meeting – 23rd November 2005

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

28th September, 2005

Present:

Councillor Councillor W H Iseley (In the Chair)

Councillors Allison, Clouth Cook, Hall, Kennedy, Lilley, Richardson, M Waller and Wright.
In accordance with Paragraph 4.2(ii) of the Council's Procedure Rules Councillor Cambridge was also in attendance as substitute for Councillor Kaiser

Officers: Peter Devlin, Principal Solicitor
Richard Teece, Development Control Manager
Chris Pipe, Planning Officer
Gill Scanlon, Planning Technician
Adrian Hurst, Environmental Health Officer
Pat Watson, Democratic Services Officer

53. Apologies for absence

Apologies for absence were submitted on behalf of Councillors Ferriday, Flintoff, Kaiser and Dr Morris

54. Declarations of interest by members

Councillors Iseley and Richardson declared a personal and prejudicial interest in the following item and indicated that they would leave the meeting whilst this was being considered: H/2005/5572

Councillor Clouth declared a personal interest in item H/2005/5647.

55. Confirmation of the minutes of the meetings held on 10th August 2005 and 31st August 2005

Both sets of minutes were confirmed.

56. Tree Preservation Order No. 166 – 47-67

Meadowgate Drive, Hartlepool – Chief Solicitor and Director of Regeneration and Planning

Purpose of report

To invite Members to confirm a Tree Preservation Order relating to one hundred and thirty one trees situate to the rear of numbers 47 – 67 Meadowgate Drive.

Issue(s) for consideration by the Committee

The Committee were advised that on the 26th May 2005, a Tree Preservation Order had been made under the Council's emergency powers to protect one hundred and thirty one trees situated to the rear of numbers 47-67 Meadowgate Drive. Subsequent to the Council issuing the Order, a representation had been received from the freehold owner of number 51 Meadowgate Drive. His concern was that the plan to Tree Preservation Order 166 had trees G12-3 and G12-4 marked in the wrong position. Reference to trees G12-3 and G12-4 on the plan could be rectified by substituting the plan with the trees marked in the correct location.

Decision

After giving consideration to the representation, it was agreed that Tree Preservation Order No.166 be confirmed with modification as stated in the report.

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

The Committee considered the following applications for planning permission to carry out developments under the Town and Country Planning legislation and, in accordance with their delegated powers, made the decisions indicated below:-

Councillors Iseley and Richardson left the meeting at this point and Councillor M Waller took the Chair

Number: H/2005/5572

Applicant: Mitchells and Butlers Retail Ltd

Agent: The JTS Partnership 1 The Drive Great Warley Brentwood

Date received: 13/07/2005

Development: Variation of planning condition 2 attached to planning permission H/FUL/0050/92 to allow longer opening Monday to Sunday (10.00-00-30)

Location: THE WHITE HOUSE WOOLER ROAD HARTLEPOOL

Decision: **Planning Permission Refused**

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. In the opinion of the Local Planning Authority the proposed extension of opening hours would lead to an increase in comings and goings to and from the premises and social congregation in and around the premises and as such would generate noise that would cause nuisance and disturbance to local residents to the detriment of their living conditions contrary to Policies Gen1 in the adopted Hartlepool Local Plan 1994 and policies GEP1, COM18 and Rec13 of the draft deposit Hartlepool Local Plan 2003.

The Committee considered representations in relation to this matter.

COUNCILLOR ISELEY TOOK THE CHAIR

Number: H/2005/5387

Applicant: Mr IMiah
34 GRANGE ROAD HARTLEPOOL

Agent: Mr I Miah 34 GRANGE ROAD HARTLEPOOL

Date received: 11/07/2005

Development: Provision of UPVC windows and door (retrospective application)

Location: 34 GRANGE ROAD HARTLEPOOL

Decision: **Deferred for further discussions with the applicant**

Number: H/2005/5656

Applicant: Able Env. Services Ltd
Able House Billingham Reach Ind. Estate Billingham

Agent: Able Uk Ltd Able House Billingham Reach Ind. Estate
Billingham

Date received: 15/08/2005

Development: Installation of plant and machinery and gas flare within
fenced compound

Location: Seaton Meadows Brenda Road/Tees Road Hartlepool

Decision: **Deferred for additional information and a Members' site
visit**

THE VICE-CHAIR COUNCILLOR M WALLER TOOK THE CHAIR

Mr G Craig (agent for Applicant) addressed the Committee.

Number: H/2005/5633

Applicant: Mr & Mrs Shadforth
The Barn Heads Hope Farm Castle Eden

Agent: Gary Craig Architectural Services Ltd 10 Falmar Walk
Whitburn

Date received: 08/08/2005

Development: Siting of 2 mobile cabins with central glazed link to form a
single dwelling

Location: Plot 18 Wynyard Estate Billingham

Decision: **Deferred for further discussion with the applicant and a
Members' site visit**

COUNCILLOR ISELEY RETURNED TO THE CHAIR

Number: H/2005/5512

Applicant: Mr & Mrs Dobbing
91 KESTEVEN ROAD HARTLEPOOL

Agent: Derek Stephens 17 Lowthian Road HARTLEPOOL

Date received: 22/06/2005

Development: Erection of dormer bedrooms extension to front and rear

Location: 91 KESTEVEN ROAD HARTLEPOOL

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than five years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the amended plans received on the 1st of August 2005, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt
3. The external materials used for this development shall match those of the existing building.
In the interests of visual amenity.
4. 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) shall be inserted in the elevation of the extension facing 87 and 93 Kesteven Road without the prior written consent of the Local Planning Authority.
To prevent overlooking

The Committee considered representations in relation to this matter.

Mr R Campbell (Objector) addressed the Committee.

Number: H/2005/5642

Applicant: Community Integrated Care
2 Old Market Court Miners Way Widness

Agent: Community Integrated Care 2 Old Market Court Miners Way Widness

Date received: 12/08/2005
Development: Display of a free-standing name sign
Location: GARDENER HOUSE BRIERTON LANE HARTLEPOOL
Decision: **Advertisement Consent Approved**

The Committee considered representations in relation to this matter.

Number: H/2005/5664
Applicant: Dr J.K.B.Patel
THE SURGERY STATION LANE HARTLEPOOL
Agent: Stephenson Johnson & Riley 1 Enterprise House
Thomlinson Road HARTLEPOOL
Date received: 19/08/2005
Development: Erection of a rear detached extension to doctors surgery to
provide office accommodation
Location: THE SURGERY STATION LANE HARTLEPOOL
Decision: **Deferred for a Members' site visit**

The Committee considered representations in relation to this matter.

Number: H/2005/5499
Applicant: Mr B Gowler
3 Fellston Close Hartlepool
Agent: Mr B Gowler 3 Fellston Close Hartlepool
Date received: 04/07/2005
Development: Incorporation of land into curtilage of property and erection
of boundary walls to front/side
Location: Side of 3 Fellston Close Hartlepool

Decision: **Minded to Approve subject to the following conditions but because the application represents a departure from the adopted Hartlepool Local Plan and the land is Council owned the application be referred to GONE for consideration**

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than five 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.

Number: H/2005/5647

Applicant: Leebell C/O Persimmon Homes
Persimmon House Clasper Way Swalwell Newcastle

Agent: Peter Jordan Persimmon House Clasper Way Swalwell
Newcastle

Date received: 18/08/2005

Development: Reserved matters application for the formation of an informal landscaped green wedge and associated works (revised scheme)

Location: Green Wedge Middle Warren Hartlepool

Decision: **Minded to APPROVE but a final decision was delegated to the Development Control Manager**

At this point Councillor R Waller declared a personal and prejudicial interest and left the meeting.

Mr Scott (agent for the Applicant) and Mr Watson (Objector) addressed the Committee.

Number: H/2005/5487

Applicant: Mr GLloyd
2 ARNCLIFFE GARDENS HARTLEPOOL

Agent: Mr G Lloyd 2 ARNCLIFFE GARDENS HARTLEPOOL

Date received: 28/06/2005

Development: Erection of a two-storey bedrooms extension to side with access way below

Location: 2 ARNCLIFFE GARDENS HARTLEPOOL

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than five years from the date of this permission.
To clarify the period for which the permission is valid.
2. The external materials used for this development shall match those of the existing building(s).
In the interests of visual amenity.
3. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no windows(s) shall be inserted in the elevation of the extension facing 159/159a Park Road without the prior written consent of the Local Planning Authority.
To prevent overlooking
4. Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent amending legislation), the covered way hereby approved shall not be enclosed in any way without prior planning permission.
In the interests of highway safety.

The Committee considered representations in relation to this matter.

58. Appeal by Councillor Kaiser on behalf of the Residents of Nine Acres for Land at Nine Acres, Hart, Hartlepool (*Assistant Director (Regeneration and Planning Services)*)

Members were advised of a planning appeal that had been lodged against the refusal of the Committee to allow the inclusion of agricultural land into residential curtilages. The appeal was to be decided by a hearing and authority was requested to contest the appeal.

Decision

Authority was granted for officers to contest the appeal.

59. Appeal by Mr K Hair, 4 Burnhope Road, Hartlepool
(Assistant Director (Regeneration and Planning Services))

Members were advised of a planning appeal that had been lodged against the refusal of the Local Planning Authority to grant outline planning permission for residential development at the Eden Park Self Drive Hire site on Seaton Lane. The appeal was to be decided by written representations and authority was requested to contest the appeal.

Decision

Authority was granted to officers to contest the appeal.

60. Appeal by Mr T Harwood, 42 Bilsdale Road, Seaton Carew
(Assistant Director (Regeneration and Planning Services))

Members were advised that a planning appeal had been lodged against the imposition of certain planning conditions in relation to planning permission granted to change the use of land at the rear of the property for domestic related purposes. The conditions prevent the erection of any out-buildings, means of enclosure and the securing of access from the rear track without planning permission. The appeal was to be decided by written representations and authority was requested to contest the appeal.

Decision

Authority was granted to officers to contest the appeal.

61. Use of Section 215 of the Town and Country Planning Act 1990 - Thorpe Bulmer Farm, Dalton Piercy
(Head of Planning and Economic Development)

Members were asked to consider the use of section 215 of the Town & Country Planning Act 1990 to take steps requiring removal of redundant petrol tanker bodies stored around a pond in front of Thorpe Bulmer Farm, Dalton Piercy that adversely effect the amenity of the area.

Background information, photographs and officer recommendations were included in the report.

Decision

Approval was given for the Development Control Manager, in consultation

with the Chief Solicitor, to take any necessary action, including, if necessary, prosecution in the magistrates court to secure the removal of the redundant petrol tanker bodies and restore the land back to its former condition.

62. Update on Current Enforcement Related Matters

(Head of Planning and Economic Development)

Members were advised that during the eight (8) week period prior to the meeting thirty (30) planning applications had been registered as commencing and checked. Four (4) applications with various planning conditions had been discharged by letter.

Outline details were provided of twenty seven (27) current ongoing issues.

Decision

The Development Control Officer agreed to write to the Vice-Chair regarding item 17 and keep the Ward Councillors advised on item 10.

63. Any Other Business

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 COMMITTEE COULD MAKE THE DECISION AT THE EARLIEST OPPORTUNITY

64. Local Government (Access to Information) Act 1985

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

Minute 65 - Cornwall Street Premises (para 12 - advice received, information obtained or action to be taken in connection with legal proceedings by or against the Council or the determination of any matter affecting the Council)

Minute 66 - Local Planning Authority's Representations under the Licensing Act 2003 (para 12 - advice received, information obtained or action to be taken in connection with legal proceedings by or against the Council or the determination of any matter affecting the Council)

65. Cornwall Street Premises

The Development Control Manager advised that alterations had been made to the frontage of the property which were better than those originally considered by Members. This was acknowledged. The Development Control Manager to monitor and review the situation and report back if necessary.

Decision

Members noted the oral report.

66. Local Planning Authority's Representations under the Licensing Act 2003 *(Chief Solicitor)*

The Council's Development Control Manager and the Principal Solicitor gave members an update as to the representations made by the Local Planning Authority in the context of applications proceeding before the Council's Licensing Sub-Committees under the provisions of the Licensing Act 2003. Such representations, related to the applications for the variation of a licence, which had enjoyed the benefit of a Justices Licence and in cases, a Public Entertainment Licence, and which sought the extended provision of "licensable activities" as defined under the Act. Commentary was provided on the engagement of the "Special Policy" as introduced under the Council's Statement of Licensing Policy, where a relevant representation had been made by a responsible authority or an interested party. Members were also informed as to the considerations to be made in respect of such applications and how this impacted on both the licensing and planning functions.

Decision

Members noted the oral update.

WISELEY

CHAIRMAN

Report of: Chief Solicitor and Director of Regeneration & Planning

Subject: TREE PRESERVATION ORDER NO 175
1 MERYL GARDENS, HARTLEPOOL

1. PURPOSE OF REPORT

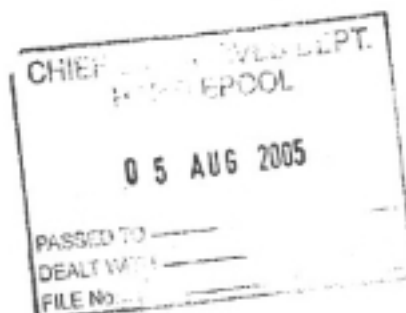
- 1.1 To invite Members to confirm a Tree Preservation Order relating to one tree situated to the front of number 1 Meryl Gardens, Hartlepool.

2. BACKGROUND

- 2.1 On the 21st July 2005, a Tree Preservation Order was made under the Council's emergency powers to protect one tree situated to the front of number 1 Meryl Gardens, Hartlepool.
- 2.2 Subsequent to the Council issuing the Order, a representation was received from Mr S Auton the freehold owner of number 2 Meryl Gardens, Hartlepool (Appendix 1). Mr Auton's concern is -
- (i) That the tree overlapped onto his property and blocked out a lot of natural light and during high winds the branches touched his windows. Mr Auton would like the tree trimming to alleviate this problem.
- 2.3 Mr Auton was contacted by Tony Dixon, the Council's Arboricultural Officer on the 16th August 2005 (Appendix 2). Mr Auton was reassured that after the Order was confirmed work could be carried out with the permission of the Local Planning Authority.

3. RECOMMENDATIONS

After giving consideration to Mr Auton's representation, it is recommended that Tree Preservation Order No.175 be confirmed without modification.



Steve Auton
2 Meryl Gardens
Hartlepool
TS25 2PL

J.A. Brown
Chief Solicitor
H.B.C.
Civic Centre
Hartlepool
TS24 8AY.

Dear Sir

Regarding the letter I received from your department I am requesting a few adjustments before fixing the preservation order on the tree in 1 Meryl Gardens. My worries are the tree falling in either direction which would surely affect my home, it also blocks out a lot of natural light and during high winds branches touch my windows.

I fully understand the reasons for keeping the tree, as I was in my younger days employed by tree surgeons for some time and don't for one minute want the tree totally cutting down "though not a bad thought" – just to cultivate the tree correctly so that 70% of the tree is not in my garden – thus threatening my property as well as others.

Nothing will be affected by trimming the tree i.e. wild life issues or preservation orders providing we act now. I fully understand that trees grow and this problem will arise again but not for a long time providing the correct action is taken from your department.

Recent conditions in our weather worry me and my neighbours and having lost one of the many trees in my rear garden I realise the affects it would have to my property, the tree was a quarter of the size and seriously damaged my fence.

Co-operation is the key I believe and I would be very grateful along with others if this was assessed and suitably resolved with only then I will happily agree to a preservation on the tree in "NUMBER 1".

Yours faithfully

STEVE AUTON

MEMO

To: **Pauline Newton: Legal Division**
 From: **Tony Dixon: Arboricultural Officer**
 Ext: **4071**
 Your Ref: **PN/TPO/UN4978**
 Date: **17th August 2005**

Our Ref:

CHIEF EXECUTIVES DEPT. HARTLEPOOL	
18 AUG 2005	
PASSED TO	PN
DEALT WITH	
FILE No:	

**TREE PRESERVATION ORDER NO. 175 - 1 MERYL GARDENS**

Pauline,

I contacted Mr. Auton, by telephone, on 16th August 2005 to discuss the matter of the above tree preservation order and his letter received on 5th August 2005.

His main concern was that, once the tree preservation order was in place, he would be unable to take any action to abate any nuisance that the tree may cause. I explained to him that having a tree preservation order in place simply means that the local planning authority's permission must be gained before carrying out works to TPO trees, and that all applications are assessed on their individual merit.

Works to trees the subject of a TPO can be carried out with the permission of the LPA and, in the case of the owner of an adjoining property submitting an application, with the consent of the owner of the tree. I suggested that Mr. Auton read the leaflet '*Protected Trees: A Guide to Tree Preservation Procedures*', provided with his copy of the TPO.

Mr. Auton said that he thought that the LPA permission would not be a sticking point in any application, but that consent may not be forthcoming from the owner of the tree. I explained that entering into negotiation with his neighbour with the help of UNITE, a neighbour mediation service, or the Citizens Advice Bureau would be recommended should this situation arise.

Regards,

Tony Dixon
 Arboricultural Officer
 Landscape Planning & Conservation

No: 1
Number: H/2005/5656
Applicant: Alab Env. Services Ltd Able House Billingham Reach
 Ind. Estate Billingham TS23 1PX
Agent: Able House Billingham Reach Ind. Estate Billingham
 TS23 1PX
Date valid: 15/08/2005
Development: Installation of plant and machinery and gas flare within
 fenced compound
Location: Seaton Meadows Brenda Road/Tees Road Hartlepool

Introduction

1.1 This application was deferred at the previous meeting of the planning committee for further information and to allow Members to visit the site. Various items of technical information relating to this project are appended to the report for Members information.

The Application and Site

1.2 Detailed planning permission is sought for the development of a small renewable energy project, comprising plant and machinery to enable gas from the landfill site to be collected and converted into electricity for export into the local distribution network (some 2300kw/ hour).

1.3 The development essentially comprises two gas powered generators and a sub-station. A flare unit would amount to the tallest item of apparatus at some 8.3 metres in height. The purpose of the flare would be to deal with gas emissions in the event of the gas generator failing. The gas is to be collected via a network of underground pipes and wells.

1.4 The plant would be sited within a rectangular compound some 29 metres by 18 metres in area.

1.5 In support of the application the applicant makes the following comments:

1. The plant will assist with disposing of harmful greenhouse gasses.
2. Noise – The booster section of the equipment is contained within a purpose built, noise attenuated enclosure. The wall and ceiling sections of the enclosure are of a double skin construction with 50mm of sound attenuating (rockwool) material contained within the void. The internal walls of the enclosure are covered with perforated sheet to ensure that noise from the booster is absorbed within the attenuating material.

The flare stack is lined with 125mm of ceramic based refractory lining. While the prime purpose of the lining system is to provide heat protection and thermal insulation, the material also provides excellent noise

attenuation properties. This combined with the height of the stack ensures that very little noise emanates from the flare stack itself.

The combined flare and booster section typically ensures compliance with BS5228, noise control on construction and open sites, part1, 1984, codes of practice for basic information and procedures for noise control. With regard to this specific site, as the nearest noise receptors are in excess of a mile from the plant location there is no risk of exceedence of these values.

3. Noise attenuation measures would be designed into the apparatus providing a maximum of 75 dba at 1 metre in relation to the generators and 68 dba at 1 metre in relation to the gas plant container.
4. Stack Emissions -The Biogas Technology Ltd flare system has been independently tested by an Environment Agency sponsored testing programme. Results prove that the flare system operates well within the current standard and emission limits set by the EA and outlined in the best practice flaring of land fill gas published by the EA.
5. Safety - Ener.G Natural Power Ltd is the largest independent company generating electricity from landfill gas, with 42 sites and 77MW of installed capacity at present, with many more sites either in build or planning. They have never had an explosion on one of their sites, and all the operations are unmanned for the majority of time. The telemetry link in place is extremely comprehensive and is backed up by a team of technicians, senior technicians, area mangers, managers and directors. They can at any time interrogate and adjust any engine in their fleet from either a central control facility in Salford, or via the appropriate technician equipped with a laptop.

The industry is strictly legislation bound and the operation and maintenance of the plant is carried out to a very high standard. The site has a requirement to include proposals for gas collection within its licence, this plan includes for a comprehensive gas collection system primarily to extract and control the gas produced by the deposited waste and transport it to either utilisation or flare. Either way, the control of gas is the primary item. The gas collection system, operating regime and the equipment attached to the collection system will ensure that the gas is dealt with in a safe and efficient manner, without risk of fire or explosion.

Publicity

1.6 The application has been advertised by a site notice and a press notice
To date there have been 2 letters of objection raising the following points:-

- i) Danger / nuisance associated with emissions from the apparatus.
- ii) The methane conversion process is not adequately covered in the submission.

- iii) Would strongly oppose gas being imported to make up any shortfall. Project must not be used as an enlarged dumping application.
- iv) Not all deposited material will be gas producing and therefore an assessment of the quantity of methane that will be produced is sought.
- v) The position of methane pipes in relation to each cell should be made known
- vi) There is inadequate security at the site.
- vii) The risk of hazardous materials being emitted in the event of accidents.

The period for publicity has now expired.

Consultations

1.7 The following consultation replies have been received:

English Nature – The proposed development is considered unlikely to cause damage or disturbance to the nearby SSSI and would not be likely to have a significant effect on the interest features of the Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site

Environment Agency – No objections subject to conditions to prevent contamination of groundwater and recommendations to safeguard against exposure to risk of flooding.

In January of this year there was no flare on the site but the presence of gas was identified. They conducted pumping trials and gas testing from January which identified that there was a significant enough source of gas to justify the installation of a flare. A temporary flare was installed in March/April as a requirement from the Environment Agency.

The recent planning application for a permanent flare is likely to result in an improvement to the quality of the flare being used. The permanent process will also require a variation to their current Pollution Prevention Control (PPC) Permit which requires the Best Available Techniques to be utilised. The use of any sort of flare should reduce the impact of landfill gas on the wider environment. A modern effective flare that is operated and maintained to a high standard, will have a positive effect in reducing the impact of landfill gas from the site.

Health and Safety Executive – No objections raised

Head of Public Protection – The proposal is a sustainable use of methane gas generated from the landfill operation. No objection raised.

Head of Technical Services - No major highway implications providing that the gas flare is shielded from the highway to prevent possible distraction to motorists using Brenda Road.

Planning Policy

1.8 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Ec5: states that proposals for business uses, general industry and warehousing will normally be approved in this area. General industry will only be approved in certain circumstances.

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen3: states that the Council will normally require provision to be made to enable access for all in all new development where public access can be expected, and in places of employment and wherever practicable in alterations to existing developments.

Gen4: 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.

PU6: States that proposals for the development of renewal energy schemes will be approved subject to there being no demonstrable harm to the character of the area, amenity of residents, ecology or radar and telecommunications. A restoration scheme should be submitted.

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

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

Planning Considerations

1.9 The main issues for consideration in this case are considered to be:-

1. The principle of the project
2. The visual impact of the proposal
3. Emission associated with the apparatus

The principle of the project

1.10 The Government's Planning Policy Statement PPS 22 on renewable energy confirms the government's target objective of cutting carbon dioxide emissions by 60% by 2050. It states that the development of renewable energy resources is vital to the delivering targets on climate change.

Two of the key principles in PPS22 are stated thus:-

- The wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission.
- Small-scale projects can provide a limited but valuable contribution to overall outputs of renewable energy and to meeting energy needs both locally and nationally. Planning authorities should not therefore reject planning applications simply because the level of output is small.

1.11 The proposed development is therefore considered to be compatible with the objectives of PPS 22 and PU6 of the revised Local Plan

Visual impact

1.12 The plant would be noticeable from a short stretch of Brenda Road but is considered to be entirely compatible in visual terms with its industrial surroundings. Views from the north and east would be screened by the higher bunding associated with the adjoining landfill operation.

1.13 It should be noted that the flare would only be used periodically at times when the engines are not operating. On this basis it is considered that the visual impact of the flare, which is a typical industrial feature in this area would not provide a strong enough ground on which to refuse the planning application.

Emissions

1.14 With respect to the emissions from the plant, neither the Environment Agency nor the Council's Head of Public protection have found reason to object to the specifications proposed. The Agency note that the plant will require a modification to the existing site permit. When assessing this matter the Agency will consider the dispersion of gas into the environment taking into account the location of the flare.

1.15 Information has been appended to this report concerning the technical performance of the apparatus. There are also responses from the applicant to queries, concerns and objections raised about the project. It is important to evaluate how much weight should reasonably be attached to the concerns and objections within the planning process.

1.16 The methane conversion process- Neither the Environment Agency nor the Health and Safety Executive who have a duty to ensure that chemical processes do not present a safety risk have objected to the project. Planning officers consult and rely upon the scientific expertise of the aforementioned agencies in this area. Further information on the methane conversion process is provided in the appended technical information (see letter dated 7 October 2005).

1.17 Importation of gas – The applicant states that no gas is to be imported in relation to this project. As an additional safeguard it would be possible to impose a planning conditions preventing this from happening.

1.18 Quantity and location of methane production – The specific detail of this is a matter for the Environment Agency to regulate through Pollution Prevention Control (PPC) Permit legislation. Further information on the gas production model is provided in the appended technical information (see letter dated 7 October 2005).

1.19 Safety and security issues - It should be noted that the Health and Safety Executive have not objected on such grounds.

1.20 It is concluded taking into account the views of the various regulators that the proposed project would have a positive effect on the environment and as such should be supported.

RECOMMENDATION - Approve

1. The development to which this permission relates shall be begun not later than five years from the date of this permission.
To clarify the period for which the permission is valid.
2. The fence enclosing the compound hereby approved shall within 1 month of the plant coming into operation be painted dark green in colour.
In the interests of visual amenity.
3. 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 combined 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.
4. 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 LPA. The approved scheme shall be retained throughout the construction period.

- To prevent pollution of the water environment.
5. Development approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.
The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.
 6. All gas to be used in the process for which planning permission is granted shall be generated on the site. Under no circumstances shall gas be imported to the site for use in this process.
In the interests of controlling the level of potentially harmful substances on the site.

Kevin Wanless
 ALAB Environmental
 ABLE House
 Billingham Reach Industrial Estate
 Billingham
 TS23 1PX.

07.10.2005

re planning objection for Seaton Meadow

Dear Kevin,

As requested, I will address the comments from the objections raised by A Mrs Ryder for you to forward to Mr Merit.

Points in order of the letter dated 23rd September 2005.

Point 1.

Methane is used as a fuel to power multi cylinder turbocharged reciprocating engines. These engines are widely used throughout the UK and indeed worldwide. The methane used is derived from the decomposition of waste within the body of the landfill and is extracted from the fill under suction. The Methane is then delivered via a pump to the engine where it is mixed with air and burned within the cylinders of the engine; the engine then turns an alternator to produce electricity. This use of landfill methane to generate electricity in this way is part of the governments target technologies encouraged to produce green electricity.

Point 2.

The planning application is for the maximum electrical generation (2300kw) we see available from the site **At its peak of production**. This is predicted by our gas production model as being between 1318 cubic metres per hour and 1976 cubic metres per hour in some year's time. Our method of installation follows the actual gas production from the site in increments of 300kw generators, which use approx 200cubic metres per hour of gas. The model assumes waste types and inputs already deposited in the site and projected into the future, and we use it for financial modelling. The two figures are an optimistic gas production figure, and a pessimistic gas production figure, this allows some discretion for changes in landfill legislation in the future, site conditions and filling regime changing etc. Once we have a contract we simply install generation capacity to match the amount of gas produced, If we don't generate with the gas, it would simply be burned through the flare (which is included in the gas utilisation scheme to ensure gas is always extracted and burned) and wasted.

Generation equipment and the costs associated with it are very expensive. Natural Power are a business like any other and do not install equipment without knowing it will run as it is designed to.

Cont.

Point 3.

Ener.G Natural Power Ltd are unaware of any landfill gas generation scheme operating on imported gas from other landfills, I assume this comment is assuming road transport of compressed gas from other sites, which is both commercially unattractive and impractical.

ENPL have no plans to use gas other than that forming within the Seaton Meadow site, and are unaware of any other company wishing to do this VIA our equipment.

Points 4/5.

Ener.G Natural Power Ltd is the largest independent company generating electricity from Landfill gas, with 42 sites and 77MW of installed capacity at present, with many more sites either in build or planning. We have never had an explosion on one of our sites, and all the operations are unmanned for the majority of time. The telemetry link we have in place is extremely comprehensive and is backed up by a team of technicians, senior technicians, area managers, managers and directors. We can at any time interrogate and adjust any engine in our fleet from either a central control facility in Salford, or Via the appropriate technician equipped with a laptop.

The industry is strictly legislation bound and the operation and maintenance of the plant is carried out to a very high standard.

The site has a requirement to include proposals for gas collection within its licence, this plan includes for a comprehensive gas collection system primarily to extract and control the gas produced by the deposited waste and transport it to either utilisation or flare. Either way, the control of gas is the primary item. The gas collection system, operating regime and the equipment attached to the collection system will ensure that the gas is dealt with in a safe and efficient manner, without risk of fire or explosion.

I hope the response is clear enough, if not please contact me directly.

Best Regards,

Alan Guiver
Projects Manager
Ener.G Natural Power Ltd.
0161 745 3213.



"Ian Fenny"
<ifenny@alabenvironmental.co.uk>

03/10/2005 11:40

Please respond to
<ifenny@alabenvironmental.co.uk>

To: <Roy.Merrett@hartlepool.gov.uk>

cc: "Kevin Wanless" <kwanless@alabenvironmental.co.uk>

bcc:

Subject: Seaton Meadows Gas Compound Planning Application

History: This message has been replied to.

Roy

In direct response to the objection tabled by Iris Ryder please note the following.

1. The methane conversion process is a simple combustion reaction, which has been covered in the application. However to break it down in to simple terms the methane gas is used as a fuel in the same way diesel would be to power the engines which generate electricity. This is the same process that is used by LPG fuel that can be purchased on most garage forecourts. If Iris would like a scientific breakdown on how a combustion engine works I will be happy to provide such detail.

2. Able UK do not own the Seaton Meadows landfill site, nor do they operate the Seaton Meadows landfill site.

- The issue of whether the Gas to Energy project will make Alab Environmental Services any profits is confidential and not for discussion, however I can state that massive invest circa £500,000 - £1,000,000 will be required before any electricity can be sold to the national grid.
- The Seaton Meadows landfill site has taken bio-degradable waste for over 10 years and there will only be gas extraction from cells which produce methane gas. The Environment Agency clearly indicate which cells they want us to extract gas from. However for the avoidance of doubt we have hundreds of gas monitoring records which prove there is methane gas being produced in Seaton Meadows, we can submit these in support of this application if required.
- A full gas calculation trial has already taken place at Seaton Meadows in 2004, which proved we need to provide gas flaring with immediate effect. This calculation will be revised year on year to ensure the gas extraction plan takes into account only the areas that produce landfill gas.

3. We have no intention of importing methane gas into Seaton Meadows to be burnt off in the waste to energy process. As you will be aware Methane Gas is 21% more dangerous than Carbon Dioxide and as such makes a much bigger impact on the Worlds Global Warming problems. Once all of the methane has been extracted from Seaton Meadows the equipment will be removed and the Seaton Meadows site will no longer require active gas controls, however this could take up to 30 years after the closure of the site.

4. I don't think it is any one's interest to mention terrorist threats in this public forum. The comments of the gas being volatile are true and that is why we need to control it through controlled extraction systems which we are proposing in our application. If we fail to extract the gas, there will be the potential for problems within the landfill site as the gas build up would have no where to go and could lead to fires.

The comments regarding a daisy chain effect have no foundation and I believe we should be more concerned about the Nuclear Power station or Petrochemical refineries coming under any incident that would cause explosions. With regards to the operation being unmanned, the gas engines and flare will be remotely monitoring using wireless technology. This means if there is any problems with the operations a txt message and email will be sent to an engineer who is on call 24 hours per day, this is part of the maintenance programme required by the equipment suppliers.

5. As Iris stated in point 2 the hazardous areas of the site which take asbestos do not produce methane gas and as such there will be no risk of fires or explosions in the hazardous areas of Seaton Meadows. Therefore there is no risk of hazardous material being dispersed in to the

atmosphere.

The Seaton Meadows site has placed in the rear of its PPC permit a location plan showing the areas of waste disposal. This plan clearly shows where the hazardous wastes such as asbestos will be disposed. This is a public document and is available to Iris Ryder and any other member of the public who wish to view it. Seaton Meadows also submit quarterly waste returns to the EA which state how much material has been deposited at the site, this is public register information which can be accessed on the Environment Agency website.

I hope the above comments are helpful and assist in putting some facts to the Iris Ryder objections, however if you require any further information please don't hesitate to ask.

IAN FENNY

Operations Director

Alab Environmental Services Ltd

Able House

Billingham Reach Industrial Estate

Billingham

Teesside TS23 1PX

Tel: 01642-806080

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Roy Merrett
Principal Planning Officer
Department of Regeneration & Planning
Hartlepool Borough Council
Bryan Hanson House
Hartlepool
TS24 7BT

15th September 05

Reference: Planning Application H/2005/5656 Seaton Meadows Gas Compound

Dear Roy

I have received your questions on our planning application for the construction of a Gas Compound at the Seaton Meadows landfill site.

My answers are as follows:

1. What is the output rating (bhp) of the caterpillar 3516 gas engine?

The engines shown are rated at 1150 kw electrical output, though we have engines rated at 300 and 400kw electrical output which may be utilized on the site.

2. Would both of the generators be used simultaneously or is one a back up system only?

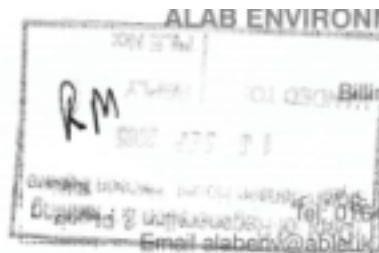
The two engine design is the predicted maximum output in the future. The installation of engines will be programmed to follow the production of gas from the site. We will start with an appropriately sized engine and will end up (if the gas production from the site filling up is as predicted) with the two 1150kw sets. Any engines installed on site will run continuously with no back up set.

3. Would the generators be driven entirely by gas from the site?

Yes.

4. What is the site capacity / how is the 15 year period calculated?

The site capacity is 5,611,897 tonnes and the 15 year prediction we use is purely for our financial model, but is based on waste inputs to the site and its composition i.e. how much putrescable waste, industrial, transfer station waste etc. this gives us a theoretical vision of what the site could be capable of. As we follow the gas production on site and install capacity which utilises fully the gas production. The final output from the site is less of an issue, but we have to plan for the maximum we see the site can produce.



Refer to file

ALAB ENVIRONMENTAL SERVICES LTD

Able House
Billingham Reach Industrial Estate
BILLINGHAM
Teesside TS23 1PQ
United Kingdom
Tel: 01642-806080 Fax 01642-655656
Email: alabenv@ableuk.com Web: www.ableuk.com

5. Is the gas to be used methane only?

The gas is predominantly methane, carbon dioxide/nitrogen and lots of other trace gasses which are dependant on the waste within the site.

6. How is the gas that is being produced by this site being dealt with now?


The gas at present is being flared off (through a ground flare). This flare will be used to supply gas to the generators, and will divert gas to the flare if the engine is off.

7. The apparatus should be positioned at 5 m A.O.D.

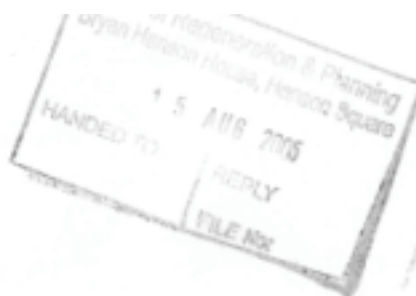
The ground flare and its associated components will be positioned above 5m A.O.D. I have enclosed a site plan showing the current levels for the site.

If you require any further information or wish to discuss any of the above comments then please contact me directly at your earliest convenience

Yours sincerely



Ian Fenny
Operations Director



PLANNING SUPPORT STATEMENT

APPLICATION FOR LANDFILL GAS CONTROL AND UTILISATION SCHEME

**AT SEATON MEADOWS LANDFILL FACILITY
BRENDA ROAD
HARTLEPOOL
GRAYTHORPE
TEESSIDE
TS25 2BJ**



PLANNING SUPPORT STATEMENT
LANDFILL GAS CONTROL AND UTILISATION SCHEME
SEATON MEADOWS

Date:
29/07/05

INTRODUCTION

- 1.1 The proposal is to install at the Seaton Meadows Landfill Site within a small compound, plant and machinery and a gas flare to enable landfill gas from the Seaton Meadows landfill site to be efficiently collected and used for generation of energy.
- 1.2 The planning application forms, together with plans and supporting technical information on the plant and machinery itself, together with environmental considerations are attached hereto.
- 1.3 The plant compound has been situated within the site adjoining the existing road infrastructure. This location within the site keeps it as far as possible away as possible from the Seaton Snook area. Its location within the site and the landscape mounds surrounding the site, together with finished landfill levels, mean that the gas flare will be of minimal visual intrusion in the area surrounding the site.
- 1.4 We believe that there will be no noise or emission problems with this type of plant having been previously tested by the Environment Agency and supporting information in this regard is attached to the application also.



PLANNING SUPPORT STATEMENT

LANDFILL GAS CONTROL AND UTILISATION SCHEME

SEATON MEADOWS

Date:
29/07/05

THE SITE AND LOCALITY

- 2.1 Seaton Meadows Landfill Site is situated between Brenda Road and Tees Road to the south of Hartlepool/Seaton Carew.
- 2.2 It is bounded to the north by a chemical plant, to the west by various industrial works and to the south by the Nuclear Power Station, the Huntsman Chemical Works and the Able TERRC facility.
- 2.3 The location of the site is shown on the site location plans.



LANDFILL GAS CONTROL AND UTILISATION SCHEME
SEATON MEADOWS

29/07/05

THE PLANNING APPLICATION

- 3.1.1 Informal discussions have been made with Roy Merrett within the Council which has led to this application being made.
- 3.1.2 The application is for a compound of just under half a hectare of land for the installation of plant and machinery and a gas flare as per the attached specifications.
- 3.1.3 The application has environmental benefits being the creation of a source of renewable energy with, in our view, no environmental harm.

3.2 Environmental

The Council have raised initial queries in relation to the following: -

3.2.1 Noise emissions in terms of impact on interests of the adjoining SPA and human population.

We have appended to this application supporting information from the proposed installers and operators of the plant, and it is considered this these show no appreciable effect on existing background noise in the area. As such we do not believe there are any noise impacts on the SPA or human population, which lives someway distant from the site.

3.2.2 Emissions to air in terms of impact on interests on SPA and the human population

We attach to the application supporting information from the installers and operators of the plant, which shows that there are no appreciable emissions to air which are likely to impact on the interests of the SPA and human population and have been, we are advised, verified by the Environment Agency in the past.

3.2.3 Risk of accidents and safety considerations

The applicant, Alab Environmental Services Ltd have already carried out an assessment of the risks in this area and supporting information is attached.

3.2.4 Visual impact of the development.

- 3.2.4.1 The main plant on the site is relatively small and will have no visual impact externally to the site. The only item with major impact is the 8 metre high gas flare.
- 3.2.4.2 The whole of the Seaton Meadows site is surrounded by a landscaping bund of a height of 8m and as such visual intrusion to the area will be very minimal.



LANDFILL GAS CONTROL AND UTILISATION SCHEME
SEATON MEADOWS

29/07/05

3.3 EMPLOYMENT

The site will be operated remotely and as such they will be no staff permanently based on site in relation to this. We have allowed for only one car parking space as there will only be a requirement for a light van occasionally at the premises.

3.4 TRANSPORT

3.4.1 The application form requires the insertion of traffic flow and we have kept this as a zero as there is less than one visit per normal working day. Further information is within the supporting documentation.

3.4.2 The plant itself will operate 24-hours a day but access to it will be on the same basis as Seaton Meadows Landfill Site itself.

3.5 Planning Policy

3.5.1 As this is a renewable energy project and we believe that we have shown that there are no environmental effects, we believe that this development complies with government planning guidance, in particular PPS1, PPG4, PPG9, PPG13 and PPS23.

3.5.2 Whilst the property is close to environmentally sensitive areas we believe the information attached hereto shows that there will be no impact whatsoever on these areas and as such an Environmental Statement should not be required.

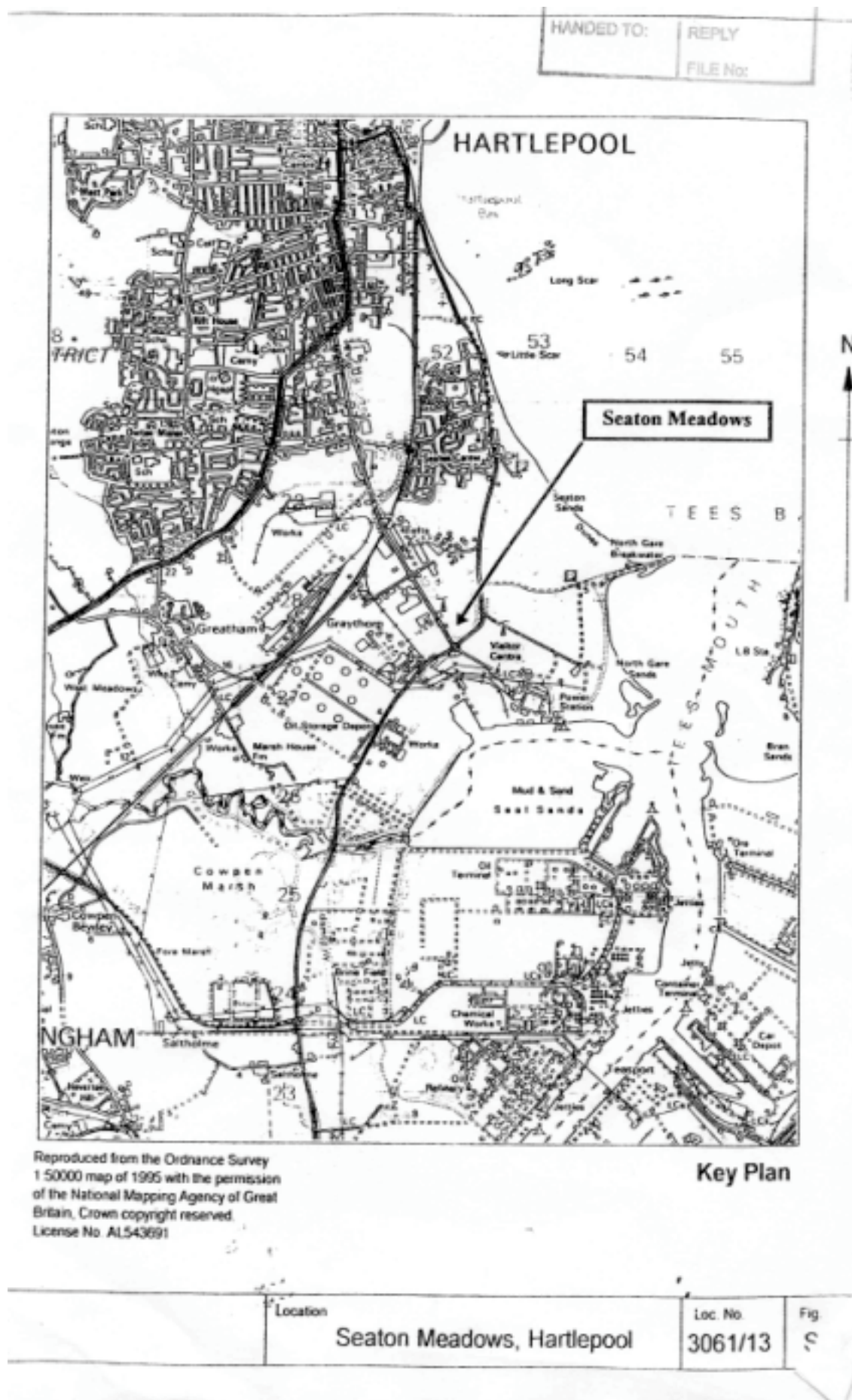


LANDFILL GAS CONTROL AND UTILISATION SCHEME
SEATON MEADOWS

29/07/05

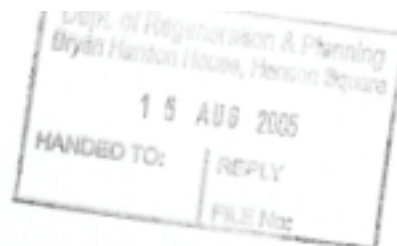
SUMMARY AND CONCLUSION

- 4.1 This is an application for operational development consisting of the installation of plant and machinery for a Landfill Gas Control and Utilisation Scheme.
- 4.2 The development will not prejudice any other development in the area and has no impact on any environmentally sensitive areas or local population.
- 4.3 The plant is being located within the site in a location which is adjacent to existing road parking and turning infrastructure and is as far away as is reasonably possible from any environmentally sensitive areas within the site.
- 4.4 As such we believe this being a renewable energy scheme which will improve safety on the site through improved management of landfill gas should be granted planning consent.





NATURAL POWER



**SEATON MEADOW LANDFILL SITE
LANDFILL GAS CONTROL AND UTILISATION SCHEME
DEVELOPMENT PROPOSAL**

**MR ALAN GUIVER
ENER.G HOUSE
DANIEL ADAMSON ROAD
SALFORD
M5 2DT
Telephone 0161 745 7450
Facsimile 0161 745 3250**

Jun 2005

ENERG NATURAL POWER LTD**Seaton Meadow Landfill Gas Control And Utilisation Scheme****Contents****Introduction****Operation and Access****Generation Period and Capacity****Compound Plant and Equipment****Gasplant and Groundflare****Summary****Drawings****Landfill Container Details - 6088****Utilisation Compound – NPL/102/001****Gas Flare Stack & Extraction Plant – BGS1-00-A-1****Proposed Sub Station – 4-00-007****3000 Litre Clean Oil Environmental Tank – C25883D2****3000 Litre Waste Oil Environmental Tank – W25883D2****750 Litre environmental Engine Coolant Tank – G260066D2****Gas Compound - SM-10003 A****Site Location Map – 3061/13****LOCATION PLAN
NPL-102-001**

1. Introduction

- 1.1 This development proposal is submitted for approval under local planning permission conditions and comprises of a plant compound providing environmental control of landfill gas arising from the site together with utilisation of the gas to generate electricity for export into the local distribution network. It is proposed the installation will be developed to the specification detailed in this application, unless otherwise agreed in writing with the planning authority.
- 1.2 The active Seaton Meadow Landfill site is presently being filled and restored through the import of controlled wastes under the terms of a Waste Management Licence issued by the Environment Agency. A large area of the site is now substantially complete and up to finished capping levels.
- 1.3 It has long been recognised that the decomposition of the organic matter within the degradable waste produces a gas known as landfill gas, which contains a mixture of methane, carbon dioxide and nitrogen. Methane is flammable and can be an asphyxiate. The need to minimise the risks has led to the development of gas control measures on waste disposal sites over the past twenty years.
- 1.4 Methane produced from landfill sites, together with other gases such as carbon dioxide, accumulate in the upper atmosphere where it absorbs short wave radiation from the earth's surface. This greenhouse effect is believed to have resulted in progressive climatic warming to which adverse environmental trends have been linked over the past twenty years. The 1992 UNCED (or Earth) Summit resulted in an international initiative to reduce emissions of greenhouse gasses, to which the UK government is a signatory. Reductions in the amount of landfill gas released into the atmosphere is a key component of this strategy.
- 1.5 The UK government has set a target of 10% of electricity demand to be produced from renewable sources by 2010. At present in the region of 632 Mw of electricity is produced in the UK from landfill gas.
- 1.6 Landfill gas being produced at the site is currently being drawn off and utilised as a non-fossil fuel source for the generation of electricity.
- 1.7 The main stimulus for the development of LFG utilisation in the UK was the privatisation of the electricity market in 1989. LFG utilisation is steadily becoming a competitive source of renewable energy providing the impetus both for technical innovation and the testing of development options. The technology is now relatively mature, the initial problems with gas composition have been largely overcome and the issues associated with the prime mover (generator engine) are clearly understood. A considerable body of expertise has grown, covering every stage of the LFG projects from gas resource, assessment and equipment supply to economic appraisal and construction.
- 1.8 Against this background Natural Power Ltd has been awarded Non Fossil Fuel Obligation and Renewables obligation contracts with a combined capacity of over 80 Mw.

- 1.10 The facility will occupy <0.05 hectares on the Southwestern perimeter of Seaton Meadows Landfill Site, Brenda road, Hartlepool. The installation will be sited within the landfill site area, attached to the existing facility, to enable collection of the gas via a network of existing under ground wells and pipework. The location will also be convenient for existing access, services and suitable H.V. electricity connection. The proposed location is shown on the site plans provided with this application, NPL-102-001 and an extract from the Ordnance survey.

1.11 **Access and Operation**

- 1.12 Following the installation and commissioning the system will run on a continuous basis throughout the year, with shutdowns only for maintenance and fault rectification. The system will operate unmanned, remotely controlled and monitored by telemetry link. Access for a light van will be required for maintenance and monitoring staff on a regular basis (at least weekly), and occasional delivery by goods vehicle of lubricants and maintenance parts. It is expected the existing site access will be adequate for these purposes.
- 1.13 Gas collection will eventually involve the extension of existing gas collection network of boreholes and pipework within the site. The well layout design will be finalised following further tipping but will be integrated with existing gas and leachate wells. Any new wells will generally be divided into phases each connected to a manifold to collect from each group, which provides benefits in the long-term trimming and control of the fields. Control can be carried out at the manifold valves more quickly, enabling the gasfield to be reliably optimised. All of the gas collection system pipework will be located beneath the landfill capping layer and connection to the generator compound will be via an appropriately sized MDPE pipe buried at least 500mm below ground level. Consequently none of the pipework will be visible above ground when the site is fully restored reducing interference with the restoration and after use of the landfill site. The main gas collector pipe will deliver gas to a condensate knock out vessel located in the compound and in turn to the gasplant. Condensate will be returned to the landfill at a point specified by the site operator.
- 1.14 The local topography partially screens the facility from the surrounding areas.

1.15 **Generation Period and Capacity**

- 1.16 Generation of upto 2300KW/h is expected for a period of fifteen years or until the gas output of the site is reduced to a point where electricity generation can no longer be sustained. It is not thought that all the generators will be fitted initially, but a graded approach will follow the gas production until full installed capacity is reached. At that end of the viable production period the electricity generator would be removed from the site, it is a requirement the Gasflare would remain on site until the waste is sufficiently stable for gas control measures to cease. To allow for the provision of extended gas flaring it is proposed the planning permission should be effective for a period of twenty five years from installation.

- 1.18 Landfill gas utilisation and control systems are designed to meet all relevant British standards, consequently the safe extraction and combustion of landfill gas is achieved on all Natural Power Ltd sites. The plant contains explosion prevention features and cable and connection standards are to BASEEFA zone certified standards. Each system comprises of the following as standard:-
- Galvanised steel pipework
 - Spark-proof fan assembly
 - Ex rated electric motor
 - Zone rated electrical system
 - Inlet and outlet pressure gauges
 - Noise attenuation
 - Fire Alarm
 - Gas Alarm
 - Manual control valves
 - Gas sample points
 - Inlet / outlet flame arrestors
 - Earth bonded metalwork
 - Drain points for collection and removal of condensate
- 1.19 The Electricity Generators and Gasplant will be installed at the existing compound ground level and will be contained within a secure compound measuring 18m x 29m. Security will be afforded by a 2.4 mtr high galvanised steel palisade security fence to match the existing fence line. Each component will be housed in its own acoustic container painted Holly Green BS 4800/c/39.
- 1.20 The prime mover is to be a Caterpillar 3516 gas engine, well proven in landfill gas applications, with over 400 units installed both in the UK and USA. Exhaust emissions are now covered by legislation to which the generator complies. Natural Power Ltd is working in conjunction with the Environment Agency providing a test facility to monitor exhaust gas emissions from our standard generation package.
- 1.21 The generators normally operate at 415v, 50Hz and will be transformed to 11Kv prior to exporting to the local distribution system via a metered circuit breaker. The Electric metering switch will be housed in a concrete block building.
- 1.22 The individual components in the new compound will be installed at the existing ground level on concrete foundations, the remaining area of the compound will be surfaced with cold planing over a hard core base. Parking for at least one small van will be available within the compound area.
- 1.23 The facility is designed for predominately unmanned operation and will be remotely controlled though Supervisory Control and Data acquisition (SCADA) system, which will be telemetry, linked to the ENER.G group central monitoring station. This system will also provide emergency callout for the maintenance engineer in the event of a problem.

- 1.25 The new gasplant contains the handling and treatment equipment to provide gas extraction on the landfill site, and to supply the generator with fuel under pressure. An enclosed ground flare rated to deal with all the gas from the site in the event the generators are off is incorporated and will automatically light should the engines fail.

1.26 **Noise**

- 1.27 Acoustic attenuation of the generator container is designed to achieve a maximum of 75dba at 1 meter.
- 1.28 Acoustic attenuation of the gasplant container is designed to achieve a maximum of 68dba at 1 meter.

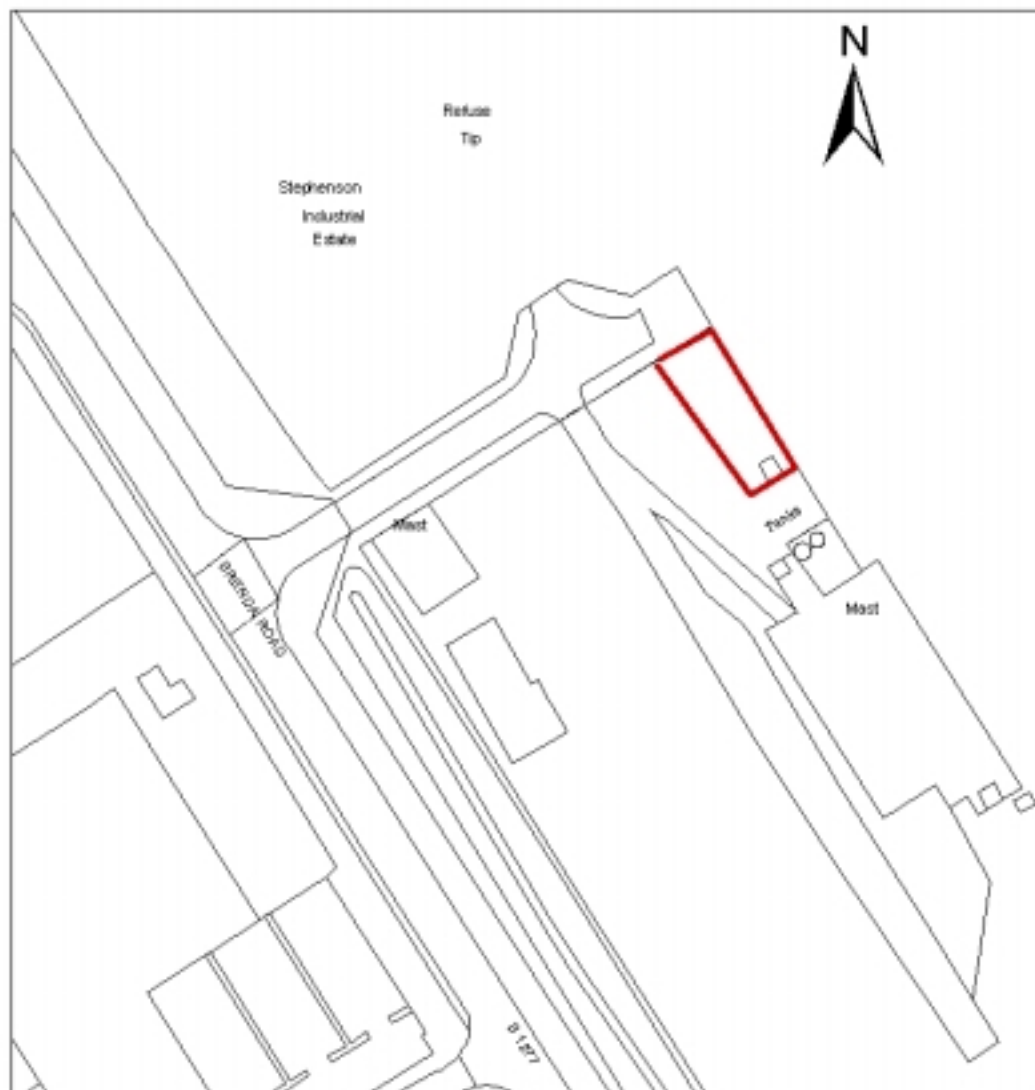
Summary

- 1.29 The 1992 UNCED (or EARTH) Summit resulted in an international initiative to reduce emissions of greenhouse gases, to which the UK government is a signatory. Reductions in the amount of landfill gas released into the atmosphere is a key component of this strategy.

The current proposal is developed in response to that strategy and will be sited in a discrete location next to the reception area of the landfill site.

The compound should make no significant visual impact on the surrounding areas. Noise levels from the generation plant are kept to a minimum by use of effective silencers and acoustic enclosures and are expected not to rise above nighttime background levels at the nearest sensitive residential property. Exhaust emissions will not exceed air quality limits for this type of engine. Traffic generation is minimal. The proposal accords with national objectives and local policies.

Seaton Meadows



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 15.8.05
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5656	REV

No: 2
Number: H/2005/5633
Applicant: Mr & Mrs Shadforth The Barn Heads Hope Farm Castle
 Eden TS27 4ST
Agent: Gary Craig Architectural Services Ltd 10 Falmar Walk
 Whitburn SR6 7BW
Date valid: 08/08/2005
Development: Siting of 2 mobile cabins with central glazed link to form a
 single dwelling
Location: Plot 18 Wynyard Estate Billingham

Introduction

2.1 This application was deferred at the previous Committee meeting to allow the for a site visit and for the applicant to provide further supporting information. The original report updated as necessary is reproduced below.

The Application and Site

2.2 Detailed planning permission is sought for the siting of 2 timber cabins on land adjacent to Crookfoot Bungalow close to the south eastern corner of Crookfoot reservoir.

2.3 The cabins would be joined to form a single unit through the incorporation of a glazed link structure. The purpose of the proposed development would be to provide a base from which to operate a mixed arable farming and livestock unit which was part of the former Wynyard estate and has been or is now being sold off in lots.

2.4 The cabins, which have been moved into position but which are understood to be unused, are at the northern end of the land acquired. Access to the site is from a track connecting to Coal Lane which runs from the A19 to Fishburn / Trimdon. This is a narrow track which serves the farm at Stotfold Moor, Amerston Hill, Crookfoot Cottages and Amerston Hall as well as Water Company plant.

The following information has been provided in support of the application:-

1. An alternative less prominent location could be provided for the dwelling at the bottom of the same field. An existing hedge would enclose and help to screen the structure. The buildings would be removed from their axes to help reduce the height. It would be stained green to help it blend into the landscape.
2. There is a business justification for a temporary dwelling. The business targets are not being met due to Mr. Shadforth's state of health, the costs of employing labour and the inability to care for the number of animals planned.
3. The Planning Committee has granted planning permission for two storey extension at Crookfoot bungalow in a very prominent location. Permission

was also recently granted for a dwelling at a riding school for which there would be less agricultural justification. It is therefore requested that a fair and consistent policy be applied.

HISTORY

2.5 The cabins in question were previously the subject of an unsuccessful planning application and subsequent appeal. In her decision letter the Inspector found that it would not be essential for the care of livestock for a worker to be present on the site at most times of the day or night in order to manage the farming operation. She also found that the cabins were sited in a highly visible and obtrusive location.

2.6 In support of the current proposal the applicant states that at present there is no permanent security for the site. A farm manager is employed who travels from his home to the site (which during calving involves 2-3 visits per night). In spite of this 7 calves together with a number of lambs have been lost.

2.7 It is stated that in terms of livestock the applicant currently has 120 sheep, 175 lambs, 35 cows, 35 calves and 1 bull.

2.8 The applicant also states that the cabins have now been sited to a much less prominent position.

Publicity

2.9 The application has been advertised by way of neighbour letters (2) and site and press notices.

There have been 4 letters of objections making the following points:-

1. There is an existing farm building in the ownership of the applicant which could be utilised for the intended purpose.
2. If the farmstead associated with lot 18 has been sold this would constitute evidence a lack of agricultural need.
3. The access road is narrow and unsuitable taking into account the existing number of users. There have been a number of accidents and as such there is concern for the safety of children and animals.
4. Since the applicant purchased Amerston Hall there has been a considerable increase in traffic.
5. Design Bulletin 32: residential roads and footpaths states that no more than 5 dwellings should be served from a shared private driveway. There are already 5 dwellings served.
6. What is proposed could establish a precedent for further development.
7. The development will be out of keeping with the area.
8. Property devaluation.

The publicity period has now expired.

Copy letters C

Consultations

2.10 The following consultation replies have been received:

Head of Technical Services – No comments or objection

Head of Public Protection – No objections

Elwick Parish Council – Objects as Councillors believe Amerston Hall is in the ownership of Mr. And Mrs. Shadforth; the cabins are unsightly and would establish a precedent for further housing development in the locality.

Ramblers Association - No comments

Planning Policy

2.11 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Co17: states that proposals for development having a significant effect on Sites of Nature Conservation Importance will not normally be permitted, although exceptions will be made for certain requirements including coastal protection measures. Where appropriate compensatory provision for nature conservation will be required.

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

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.

Ru1: states that the spread of the urban area into the surrounding countryside and undeveloped areas of coast beyond the urban fence line will be strictly controlled. Development other than that relating to countryside activities will not normally be permitted (the application site lies beyond the urban fence line).

Rur14: identifies the application site as being within a special landscape area where development will not normally be permitted unless it is sympathetic to the local rural character in terms of design, siting, materials and landscaping.

Rur1: states that the spread of the urban area into the surrounding countryside beyond the urban fence will be strictly controlled. Proposals for development in the countryside will only be permitted where they meet the criteria set out in policies Rur6, Rur10a, Rur11, Rur13 or where they are required in conjunction with the development of natural resources or transport links.

Rur11: states that isolated new dwellings in the countryside will not be permitted unless necessary in relation to agricultural, forestry, or other approved or established uses in the countryside and subject to appropriate siting, design, scale and materials. The policy also sets out criteria for determining applications for new houses on single infill sites within hamlets or groups of houses and for one for one replacement dwellings. Infrastructure including sewage disposal must be adequate.

Rur14: states that proposals within the Tees Forest should take account of the need to include tree planting, landscaping and improvements to the rights of way network. Planning Conditions will be attached and legal agreements sought in relation to planning approvals.

Rur20: states that development in this special landscape area will not be permitted unless it is sympathetic to the local rural character in terms of design, size and siting and building materials and it incorporates appropriate planting schemes.

WL8: states that development likely to have a significant adverse affect on locally declared nature conservation and geological sites (except those allocated for another use) will not be permitted unless the reasons for the development clearly outweigh the particular interest of the site. Where development is approved, planning conditions and obligations, as appropriate, will be used to ensure compensatory provision of a suitable alternative site.

Planning Considerations

2.12 The Council operates strict control over development within the open countryside. It is generally required that there should be a demonstrable and justifiable need for new isolated residential development.

2.13 The starting point for considering whether a temporary agricultural dwelling would be acceptable is the guidance provided in the government's Planning Policy Statement 7 (PPS7). This states that the following criteria should be satisfied: -

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) functional need

- (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other normal planning requirements, e.g. on siting and access, are satisfied.

2.14 It is apparent that the applicant is farming a number of animals. There has also been investment in the farm in the form of recently constructed farm buildings.

Functional need

2.15 The applicant has provided further information in support of their assertion that they have sold the property known as Amerston Hall Farmhouse. This information has been examined by the Council's legal division who concur that the application appears to have given up his shareholding in Hedley Davis Property (the current registered owner of Amerston Hill Farmhouse) in September 2003.

2.16 Notwithstanding the above PPS 7 states at Annex A para. 5:-

"In cases where the Local Planning Authority is particularly concerned about possible abuse, it should investigate the history of the holding to establish the recent pattern of use of land and buildings and whether, for example, any dwellings, or buildings suitable for conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need".

2.17 The original application was lodged in March 2003 at a time when the applicant still owned Amerston Hall.

2.18 Indeed this issue was commented on by the Planning Inspector in relation to the previous proposal that was dismissed at appeal. She recognised that until October 2003 the applicant was the owner of Amerston Hall and it seemed that no consideration was given to its potential use in relation to the farm holding. She concluded that this cast further doubt on the question of the need for a full time presence on the farm.

2.19 Although it would appear that animals have been lost during the calving period, the issue of potential emergencies arising during this period was fully considered by the Inspector in relation to the aforementioned appeal. She recognised that the lambing / calving period *"could be an extremely difficult demanding time requiring extended periods of attendance. However for the remainder of the year the animals needs would be those of regular feeding and tending which could be carried out as part of a normal working day"*. The Inspector based this conclusion on livestock numbers in the order of 200 breeding sheep and 75 breeding cattle i.e. in excess of the numbers currently held on the farm. The Inspector also considered that the

concerns with respect to security did not justify such an additional level of need as to justify a worker to be readily available at most times.

2.20 In summary a satisfactory case for functional need has not been demonstrated and as such the proposed development fails to meet the criteria set out at (ii) and (iv) above.

Financial justification

2.21 The applicant has now provided a business plan in relation to this project. It is currently being examined and the findings will be given in an update report.

Siting and access

2.22 The cabins have now been relocated to a position on the eastern side of the access track opposite Crookfoot House. This is a highly visible brow of hill location which is prominent in relation to the southern approach along the access track and from nearby public rights of way. The site is within a Special Landscape Area as defined in the Local Plan. The proposed development, by virtue of its timber construction with glazed central link and ornate entrance detailing would result in an obtrusive and alien feature that would be detrimental to the appearance and character of the surrounding open countryside. This impact would be worsened by the ancillary developments such as car parking and general storage typically associated with residential use.

2.23 Whilst the site would be accessed via a narrow track the amount of additional traffic that could be reasonably expected to come and go from the proposed dwelling would be minimal. It would not therefore be expected to result in an adverse impact on safety.

Property value

2.24 The impact of a development on property value has been consistently held in planning case law not to be a material planning consideration on the basis that it is not the purpose of the planning system to protect the private interests of one individual against those of another individual.

Further points

2.25 Alternative location - The proposed alternative siting would be off the brow of the hill and is therefore less prominent. The fact that the building could be stained and partially screened would also help to reduce its prominence. However the building would remain in an open setting and is of an entirely inappropriate design.

2.26 Precedent cases - It must be stressed that each planning application is decided on its own individual merits .

2.27 The Council would not approve new temporary dwellings in the open countryside without first being satisfied that a robust case had been made for its need both in functional and financial planning terms.

2.28 It is true that Crookfoot Bungalow has been extended in the past however this was justified taking into account relevant policies for extensions to dwellings. The fundamental difference in this case is that a new dwelling is proposed and therefore different policies apply. This requires that the need for the dwelling and not just its physical appearance and impact be examined. It should be noted that contrary to the statement made by the applicant in his supporting information a proposal to convert Crookfoot Bungalow to a double storey building was previously resisted by the Local Planning Authority. Whilst a later dormer extension proposed was approved the effect of this was to lift roof of the bungalow by only 1.3 metres.

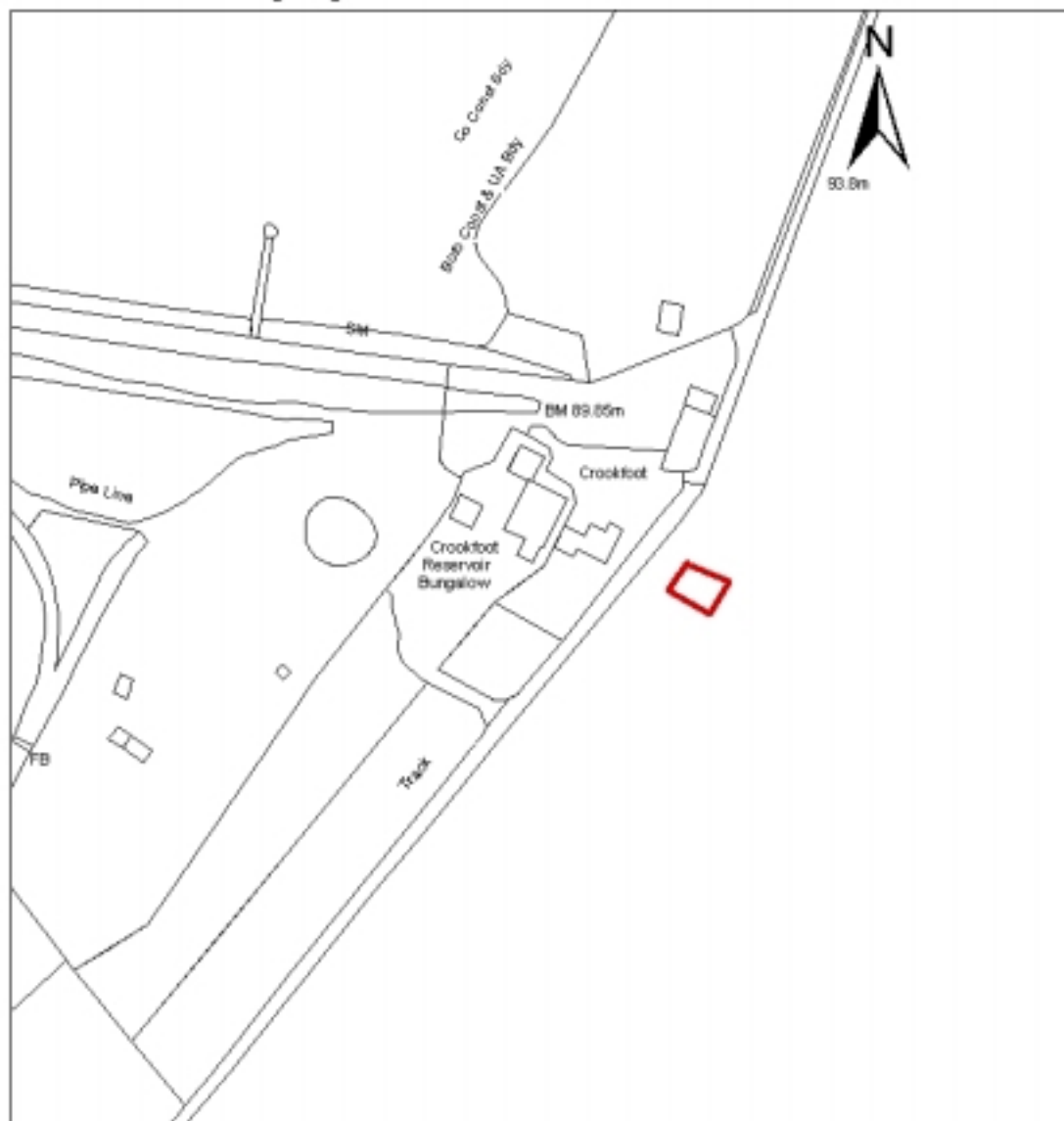
2.29 There should be no suggestion that the Local Planning Authority has acted unfairly or inconsistently in dealing with the current application.

Conclusion

2.30 It is still not clear that there is a justification for the proposed residential cabin and advice on the business plan is awaited.

RECOMMENDATION – Final update report to follow.

Plot 18 Wynyard Estate



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 15.8.05
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5633	REV

No: 3
Number: H/2005/5664
Applicant: Dr J.K.B. Patel THE SURGERY STATION LANE
 HARTLEPOOL TS25 1BG
Agent: Stephenson Johnson & Riley 1 Enterprise House
 Thomlinson Road HARTLEPOOL TS25 1NS
Date valid: 19/08/2005
Development: Erection of a rear detached extension to doctors surgery
 to provide office accommodation
Location: THE SURGERY STATION LANE HARTLEPOOL
 HARTLEPOOL

Background

3.1 This application was considered at the Planning Committee of 28 September 2005 when it was deferred for a site visit. The original report updated as necessary is reproduced below. The recommendation to approve remains the same.

The Application and Site

3.2 The application site is a modern doctors surgery on the corner of Victoria Street and Station Lane close to the commercial centre of Seaton Carew.

3.3 Neighbouring properties to the north and west are residential with the former Co-op stores (16-20 Station Lane) to the east. Opposite is Seaton Park.

3.4 Immediately to the rear of this single storey surgery, is an access lane which leads to the yard area of 16-20 Station Lane, which is currently being converted to three terraced houses.

3.5 The proposal involves the erection of a small, single storey building approx 26 sq m in floor area. This building, which would be adjacent to 4 Victoria Street would provide admin/storage facilities for the doctors practice which will enable him to provide additional medical services in the existing building.

3.6 The area of land to be used was originally allocated for two parking spaces however this is currently overgrown.

3.7 There is a public car park adjacent to the park opposite on Station Lane. A residents parking zone operates in Victoria Street.

Publicity

3.8 The application has been advertised by site notice and letters to neighbours (9). Two letters of objection have been received and one letter of no objection. Points raised include:-

- 1 The new building will be out of keeping in Victorian Street.
- 2 Already problems with patients parking in Victoria Street. Dr Patel parks on the land in question.
- 3 Problems with construction materials/vehicles.
- 4 Noise and inconvenience.
- 5 Doctor does not look after existing property.

The period for publicity has expired

Consultations

3.9 The following consultation replies have been received:

Head of Public Protection and Housing – Awaited but informally no objections.

Highways – Awaited but informally no objections.

Planning Policy

3.10 The following policies in the adopted Hartlepool Local Plan 1994 and the revised deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

Gen3: states that the Council will normally require provision to be made to enable access for all in all new development where public access can be expected, and in places of employment and wherever practicable in alterations to existing developments.

Gen4: 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.

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

Ho14: states that non-commercial community based uses in residential areas will normally be approved provided there is no significant detrimental effect on the amenities of occupiers of adjoining and nearby properties and that parking/servicing within the curtilage can be provided.

PU8: states that community-based uses will be permitted in residential areas subject to amenity, accessibility, car parking and servicing considerations.

Planning Considerations

3.11 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals within the Hartlepool Local Plan, the effect on neighbouring properties and the street scene, in terms of visual amenity and the effect on highway safety.

3.12 The development, which is fairly minor in terms of land use would provide additional facilities for an existing use within the local community. The property is close to 2 bus routes and is located at the edge of the commercial area of Seaton Carew.

3.13 The building would be constructed in materials to match the existing surgery – brick with a tiled pitched roof. Although this would be adjacent to Victorian terraced houses, the property is not within the Seaton Carew Conservation Area, hence there are no special requirements for design or materials.

3.14 The original planning application for the doctors surgery indicated 2 informal parking spaces on this piece of land.

3.15 The area has never been tarmaced or paved although there are 4 lines of paving slabs amongst the grass and weeds.

3.16 In the course of three separate visits to the site, only one car has been parked on this land.

3.17 There is a public car park immediately opposite the site which is free of charge. In view of this it is unlikely that an objection could be sustained to the development on parking grounds.

3.18 The owner of 16-20 Station Lane has expressed concerns regarding the application. He currently has right of access between the existing surgery and the land to be developed. This was the original access to the rear of the Co-op and would now form a communal yard area and four parking spaces for the three new dwellings which are under construction. The agent has confirmed that there will be no change to this access. Although this issue is important to the development of the dwellings, rights of access are a civil matter between the owners of the relevant pieces of land.

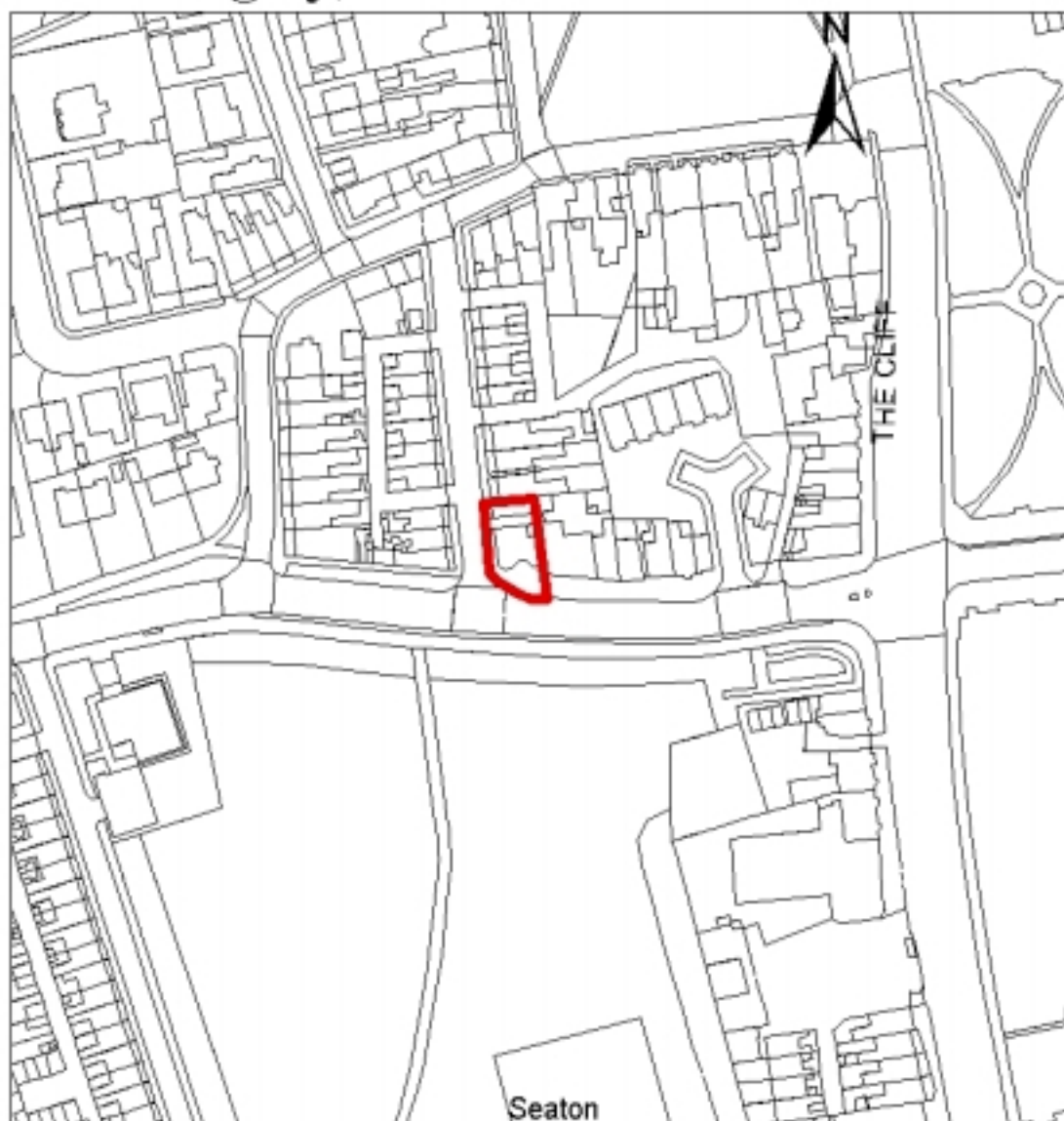
3.19 The proposed building is considered to be acceptable in terms of siting and design. It would be an appropriate use for the land with regard to Local Plan policies and there should be little impact on highway safety.

3.20 In view of the above, approval is recommended.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than five 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.

The Surgery, Station Lane



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 15.8.05
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5664	REV

No: 2
Number: H/2005/5633
Applicant: Mr & Mrs Shadforth The Barn Heads Hope Farm Castle
 Eden TS27 4ST
Agent: Gary Craig Architectural Services Ltd 10 Falmar Walk
 Whitburn SR6 7BW
Date valid: 08/08/2005
Development: Siting of 2 mobile cabins with central glazed link to form a
 single dwelling
Location: Plot 18 Wynyard Estate Billingham

UPDATE

The applicant has submitted a business plan which has now been examined by the Council's finance division. It has concluded that the livestock numbers proposed seem reasonable and indicate that it is a significantly larger than average farm. The cash flow statement appears satisfactory.

On this basis it is concluded that sufficient information has been provided to demonstrate the business has been planned on a sound financial basis. However it still remains the case in the opinion of officers that a functional need for the proposed temporary dwelling has not been demonstrated. The situation seems little different to that applying when the earlier proposal for cabins was refused on appeal

RECOMMEND REFUSAL:-

1 In the opinion of the local planning authority the applicant has failed to demonstrate that there would be a functional need for the proposed development contrary to policies RU8 of the adopted Hartlepool Local Plan 1994, Rur 11 of the revised deposit Hartlepool Local Plan 2003. and guidance contained within Planning Policy Statement 7 (PPS7).

2 In the opinion of the Local Planning Authority the obtrusive siting and alien appearance of the proposed development would be detrimental to the attractive rural setting of the surrounding open countryside contrary to PPS7 and to policies Ru 8 and Ru 14 of the adopted Hartlepool Local Plan 1994 and Rur 11 and Rur 20 of the revised deposit Hartlepool Local Plan 2003.

B Members authorise enforcement action to secure the removal of the cabins from the site and if necessary anywhere else within Plot 18 Wynyard in the future.

No: 4
Number: H/2005/5679
Applicant: Hartlepool Borough Council Civic Centre Victoria Road
 Hartlepool
Agent: Ferguson McIlveen Victoria House 159 Albert Road
 Middlesbrough TS1 2PX
Date valid: 01/09/2005
Development: Formation of a Town Square including erection of new
 toilet block and bus shelter and planting, new boundary
 walls, steps, railings, street furniture, history garden,
 lighting and highway alterations
Location: Northgate/Middlegate/High Street Hartlepool

The Application and Site

4.1 The application site is the garden area and bus station just to the south of the Borough Hall, Middlegate.

4.2 The site, which is in the Headland Conservation Area, is currently a walled garden with a number of trees around the perimeter and a central footpath. To the west is the bus lay-by/station with toilets and shelter.

4.3 The site is surrounded by a mixture of uses including car park, flats, shops, Borough Hall and Buildings (Listed) and houses.

4.4 The proposal involves the formation of a new town square together with relocated bus lay-by and new toilet block.

4.5 The square will be arranged in two separate areas linked by steps. The toilet block will be located to the west of the site and will provide shelter and tourist information. To the east of this will be the History (cloister) Garden, which is to include paved areas surrounding four planted shrub beds.

4.6 The main feature of this area is the illuminated Time Line which traverses the garden in the form of a pathway and would include dates in the footpath stones and historical information boards.

4.7 The eastern half of the site will be a large circular paved area with a granite star feature in the centre. There will be four grassed areas – one in each corner with a number of trees (some existing).

4.8 The paved area will link directly north to the Borough Hall and south to Sandwell Chare. There will also be links west to the History Garden and east to the existing car park.

4.9 A bus lay-by with shelter will be located opposite properties on Middlegate (7 – 17 Middlegate). This will accommodate one bus.

4.10 The application also includes new walls, railings, benches and other street furniture.

4.11 A variety of lighting is also included.

4.12 Although six trees are to be removed, more than 80 new trees will be planted around the site.

Publicity

4.13 The application has been advertised by way of neighbour letters, site notice and press advert. To date, there have been two letters of no objection and 6 letters of objection.

4.14 The concerns raised are:

- a) loss of mature trees
- b) loss of flower beds
- c) bus terminus problem not resolved
- d) parking problems
- e) will increase anti-social behaviour
- f) Town Square should be somewhere else
- g) not enough trees and bushes in the scheme for migrating birds
- h) highway safety
- i) noise and disturbance from functions at Borough Hall
- j) a number of issues have been raised by the Access Group.

The period for publicity has expired.

Consultations

4.15 The following consultation replies have been received:

Head of Public Protection & Housing – Awaited but informally no objections

Northumbrian Water – Awaited

Transport & Traffic – No objections subject to details of new lay-by. A stopping up order will be required by Magistrates Court.

Headland Parish Council – Awaited

Tees Archaeology – as important archaeological deposits have been previously found in this area, a full excavation of the site will be required to remove finds.

English Heritage – Awaited.

Planning Policy

4.16 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Co1: states that in Conservation Areas proposals should usually be submitted in detail.

Co13: states that regard should be had to the need to preserve, protect or evaluate archaeological remains which may be present on sites in this area

Co17: states that proposals for development having a significant effect on Sites of Nature Conservation Importance will not normally be permitted, although exceptions will be made for certain requirements including coastal protection measures. Where appropriate compensatory provision for nature conservation will be required.

Co2: states that proposals which preserve or enhance the character or appearance of conservation areas and do not adversely affect neighbours will normally be approved. Criteria are identified by which these are to be assessed.

Co3: encourages environmental improvements to enhance Conservation Areas.

Co5: identifies the circumstances in which demolition of buildings and other features in a Conservation Area is acceptable. Demolition will be allowed where it preserves or enhances the character or appearance of the Conservation Area, or where the structural condition renders it unsafe or where the structure is beyond reasonable economic repair. Proposals for satisfactory after-use of the site should be committed before demolition takes place.

COM22: aims to strengthen tourism and established economic activities to increase local employment and prosperity for this area, widen the mix of housing and conserve the environmental heritage of the Headland. Proposals for small scale retail, office and workshops, leisure and educational uses and housing developments of an appropriate scale and complementing the historic and cultural character of the area will be approved in identified mixed use areas at Middlegate, Nun Street and the Manor House site subject to effect on amenity.

Ec27: supports sensitive schemes for tourism or commerce within the Headland which are of a modest nature.

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen3: states that the Council will normally require provision to be made to enable access for all in all new development where public access can be expected, and in places of employment and wherever practicable in alterations to existing developments.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

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.

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

HE2: encourages environmental improvements to enhance conservation areas.

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

Hsg6(A): identifies this area for mixed use development including housing subject to there being no detrimental effect on the overall housing strategy for reducing the imbalance between supply and demand. Where appropriate, developer contributions towards demolitions and improvements will be sought. A flood risk assessment may be required.

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

Planning Considerations

4.17 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals within the Hartlepool Local Plan, the impact of the development on the surrounding area and on highway safety.

4.18 The site is located in the heart of the Headland Conservation Area, close to a number of important Listed Buildings (Borough Hall and Buildings grade II and St Hilda's Church grade I).

4.19 The proposed development will provide a new focal point for the people of the Headland and for visitors and will create outside spaces for both informal and formal gatherings and activities – all in a central location.

4.20 Physical and visual links will be created north to south and east to west across the site to maintain existing thoroughfares and views. Traditional methods and materials will be used for all building works which will help preserve and enhance this historical setting.

4.21 Although some trees and shrubs will be removed from the site, a large amount of new planting including more than 80 trees, will be provided.

4.22 Whilst no new parking has been provided within the development, the existing car park adjacent to the site will be still available.

4.23 No objections have been raised in terms of parking provision, the replacement bus lay-by or highway safety by the Highway Engineer. The layby is intended to operate as a bus stop only not as a terminus/lay over.

4.24 Some of the other issues raised, such as noise and disturbance from existing uses, cannot be taken into account whilst considering this application.

4.25 There are a number of minor issues regarding materials and further details which are outstanding, however these can all be addressed by the use of conditions.

4.26 In conclusion, the proposed development will both enhance and improve both community and visitor amenities for the Headland at the same time preserving the character and historical integrity of the Conservation Area and nearby Listed Buildings.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. Notwithstanding the submitted details final details of:
 - (1) new hand railings,
 - (2) all new lighting,
 - (3) individual seats,
 - (4) bollards (which should be similar to others on the Headland),

(5) details of plinths at corners of Cloister gardens (samples of materials to be provided),
 (6) wall details of steps (which should have more shape),
 (7) steps (should have bull nose curve to the edge),
 (8) Cloister garden pillar (which should have large pier with overhang and moulded edge detail),
 (9) railings (should be more simple without spheres on finials and should be fixed or rest on coping stone of wall),
 (10) information boards including materials to be used,
 shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

In the interests of the character and appearance of the Conservation Area.

4. 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.

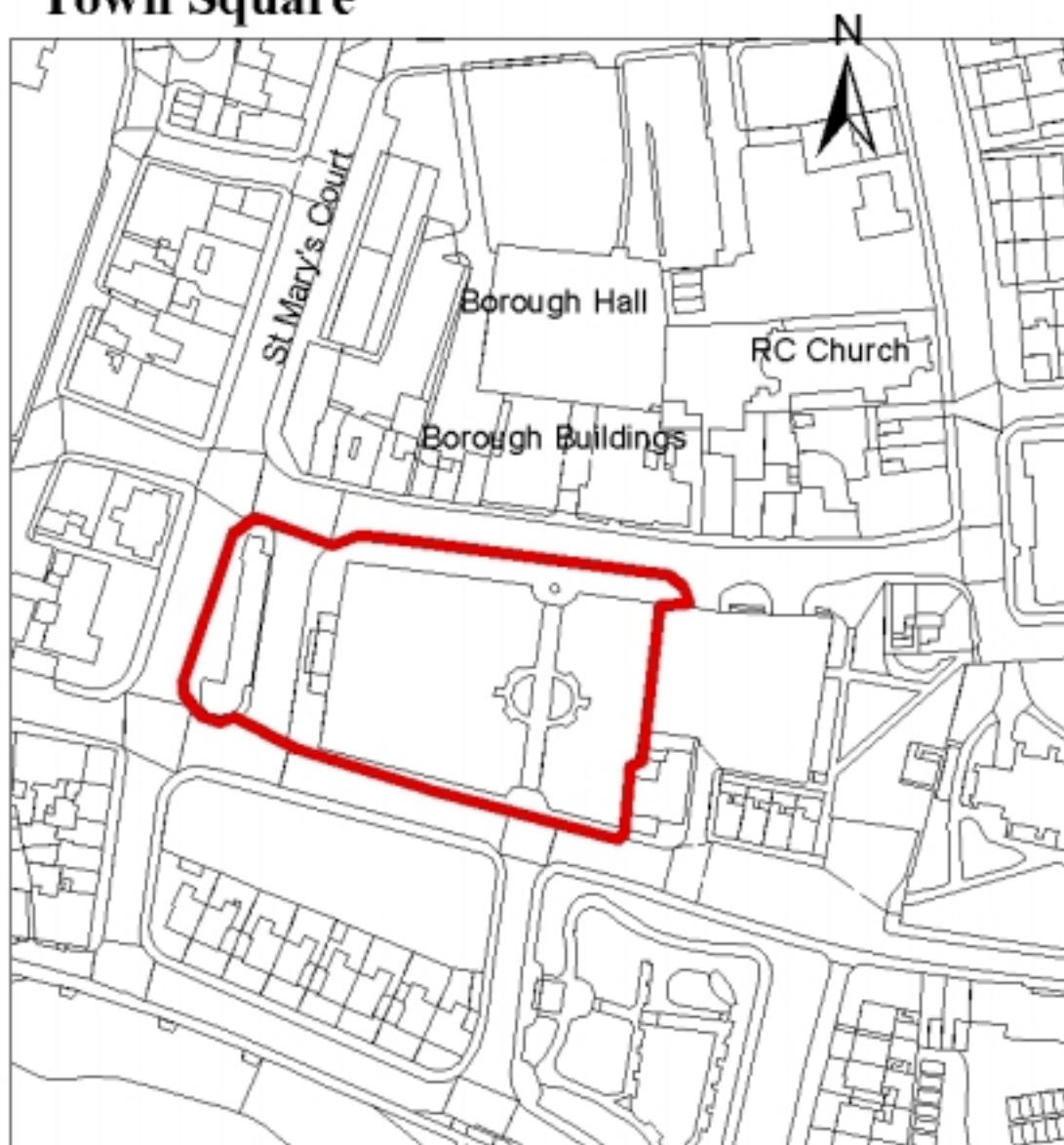
5. If within a period of five years from the date of the planting of any tree that tree, or any tree planted as a replacement for it, is removed, uprooted, destroyed, dies, or becomes in the opinion of the Local Planning Authority seriously damaged or defective, another tree of the same species and size 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.

6. No development shall take place within the area indicated 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 should be made for their preservation in situ.

The site is of archaeological interest

Town Square



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11.10.05
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5680	REV

No: 5
Number: H/2005/5680
Applicant: Hartlepool Borough Council Civic Centre Victoria Road
 Hartlepool
Agent: Ferguson McIlveen Victoria House 159 Albert Road
 Middlesbrough TS1 2PX
Date valid: 01/09/2005
Development: Conservation Area Consent for the demolition of toilet
 block and boundary walls
Location: Northgate/Middlegate/High Street Hartlepool

The Application and Site

5.1 This is the related Conservation Area Consent for demolition for works to form a new Town Square on land at Northgate, Middlegate and High Street.

5.2 As the site is located within the Headland Conservation Area, consent is required for the demolition of the existing toilet block/shelter and all boundary walls over 1 metre in height.

5.3 The toilet block/shelter is a flat roofed single storey building of a style popular in the 1960's.

5.4 The walls, which vary in height, surround the gardens and bus terminus planting beds. They are constructed in concrete blocks to imitate stone. The proposal is to demolish the building and all walls.

Publicity

5.5 The application has been advertised by site notice, press advert and letters to neighbours. Three letters of no objection have been received together with one letter of comments. The comment relates to the re-siting of the bus terminus.

The period for publicity has expired.

Consultations

5.6 The following consultation replies have been received:

Headland Town Council: Awaited

English Heritage: Awaited

Planning Policy:

5.7 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Co1: states that in Conservation Areas proposals should usually be submitted in detail.

Co2: states that proposals which preserve or enhance the character or appearance of conservation areas and do not adversely affect neighbours will normally be approved. Criteria are identified by which these are to be assessed.

Co3: encourages environmental improvements to enhance Conservation Areas.

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

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.

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

HE2: encourages environmental improvements to enhance conservation areas.

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

Planning Considerations

5.8 The main consideration in this case is the effect the demolition would have on the character and appearance of both the Headland Conservation Area and on nearby Listed Buildings.

5.9 The demolition of the toilet block and surrounding walls is crucial to the redevelopment of the area and the formation of the new Town Square.

5.10 Neither building nor walls have any architectural or historic merit and offer little towards the character of the area.

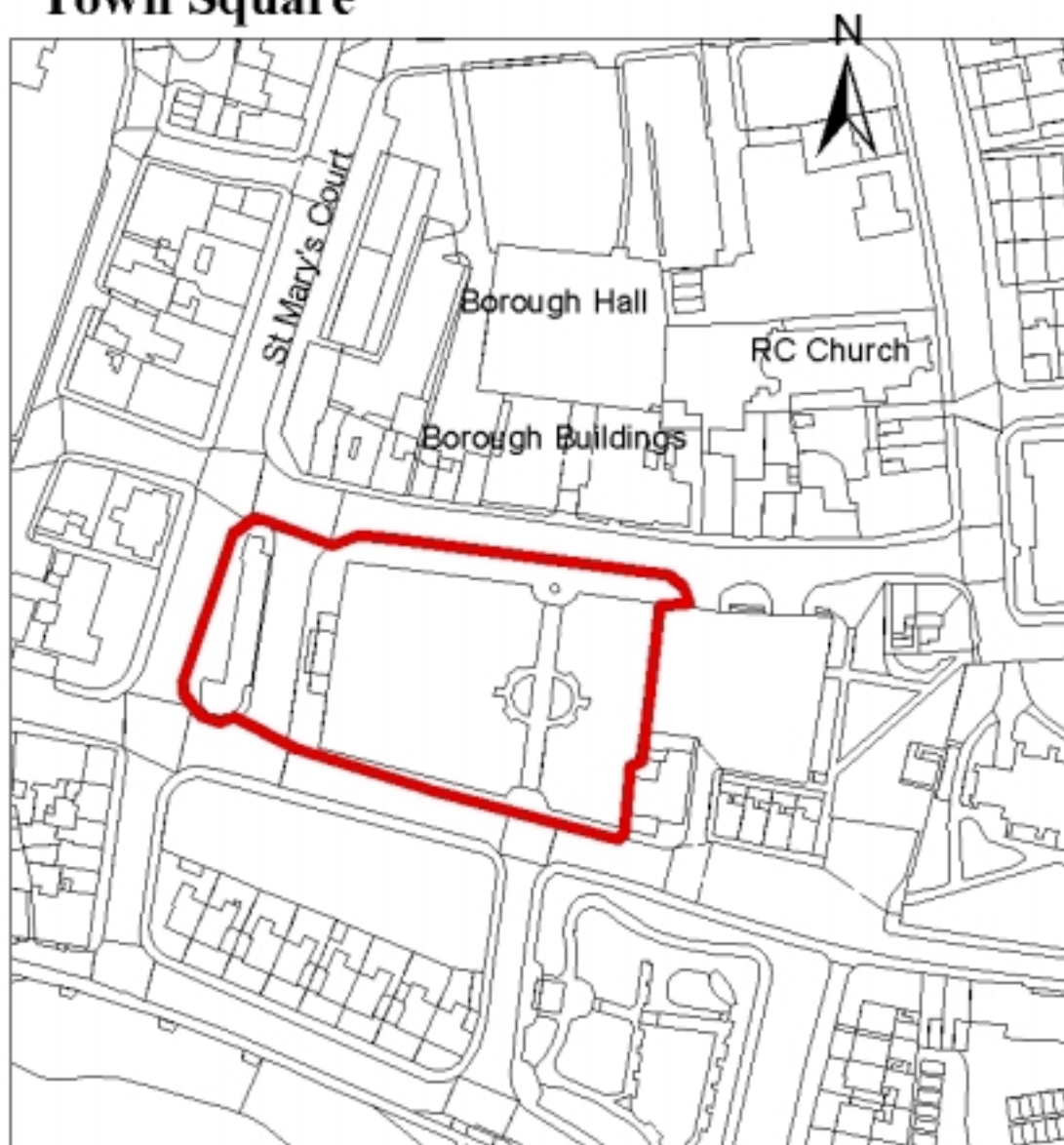
5.11 The replacement walls, railings and toilet block have been well designed to reflect the special character of the area using traditional methods and materials.

5.12 In view of this there would be no objection to the demolition of the walls and toilet block. However given the Council's ownership in this case the application will need to be referred to GONE for consideration.

RECOMMENDATION – Minded to APPROVE subject to the following condition but because the Council is the land owner in this case the application be referred to GONE for consideration.

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.

Town Square



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11.10.05
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5680	REV

No: 6
Number: H/2005/5548
Applicant: Mr Mrs Carter
Agent: Stephenson Johnson & Riley 1 Enterprise House
 Thomlinson Road HARTLEPOOL TS25 1NS
Date valid: 19/07/2005
Development: Erection of a 6 bedroom detached house integral car garage in revised location incorporation of windows to rear of garage-gymnasium and planting scheme (part retrospective application)
Location: Plot 262 Wynyard Woods Billingham

The Application and Site

6.1 Planning permission was granted on 7 October 2003 (ref: H/FUL/0515/03) for the erection of a 6 bedroom detached house with integral 3 car garage on plot 262 Wynyard Woods, part of a self build development at Wynyard.

6.2 Officers became aware that the house was being built in a different position on the plot than that approved. An independent consultant was commissioned by Hartlepool Borough Council to assess the as-built position in relation to the surrounding dwelling and the history of the plot.

6.3 The revised plans indicate the house re-positioned 3m closer to the eastern boundary with 5 Eshton than previously approved, however the applicant is disputing the actual distance as there is a dispute over the boundaries, the applicant maintains that there is a discrepancy of only 1m. The applicant has provided obscure glazed windows to the rear elevation of the garage and the accommodation above, which was previously bricked up, and has also provided a landscaped strip within the application site to the eastern boundary.

6.4 A revised plan has recently been received which details the inclusion of the existing rear raised patio and steps leading into the rear garden, this was previously omitted from the plans.

Publicity

6.5 The application has been advertised by way of neighbour letters (5). To date, there have been 3 letters of objection. The concerns raised are:

1. Not in keeping with the other properties in the area, it is too high, too near the boundary fence.
2. The property is in breach of the existing plans and should be re-built to conform with the original plans.
3. The additional windows directly overlook habitable rooms in numbers 4 & 5 Eshton
4. The current application would not have gained planning permission in 2003 relating to visual intrusion, loss of residential amenity and loss of privacy

5. It constitutes a criminal offence as it breaches conditions attached to the only consent for the site.
6. The building is closer and higher exaggerates its unacceptability.

Copy letters B

6.6 The period for publicity has expired.

Consultations

6.7 The following consultation replies have been received:

Head of Transportation and Traffic No objection

Elwick Parish Council No comment

Planning Policy

6.8 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

Ho6: States that proposals for residential development will normally be approved on selected sites, which includes this one should existing planning permission expire.

Ho7: States that proposals for residential development on land within the defined limits to development will normally be approved subject to consideration of access, car parking, scale, the provision of open space, the effects on occupants of new and existing development and the retention of existing features of interest. The land should not be allocated for any other purpose.

Hsg12(A): Sets out the considerations for assessing residential development including design and effect on new and existing development, the provision of private amenity space and where appropriate 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.

Planning Considerations

6.9 The main planning considerations in this instance are the impact of the revised position of the house on the existing Wimpey housing to the east (Eshton), and the appropriateness of the proposal in terms of the policies and proposals within the Hartlepool Local Plans.

6.10 The problems of siting came to light as a result of an officer's site visit. At that time the house was substantially complete. No objections to it had been received. As part of an exercise of looking at a variety of issues in relation to a number of sites in the Wynyard area advice was sought from an independent consultant with regard to the impact of the revised location; this advice is considered fundamental to the considerations of this application and extracts of this are attached.

6.11 Notwithstanding the various discrepancies in the implementation of the approved plans, the Independent planning consultant considers that it would be difficult to substantiate enforcement action against the amended siting of the dwelling.

6.12 The consultant has assessed the current position and history of the site and provided a report with recommendations to invite the applicant to submit an application subject to caveats outlined in his report to soften the affect of the dwelling on the surrounding properties, which the applicant has done. Although the inclusion of the windows has been offered by the developer, and a landscape strip within the application property as per the consultants advice, no landscaping can be implemented within the gardens of the surrounding plots as they are not within the control of the developer.

6.13 With regard to the objections raised by the neighbouring properties in Eshton, it is considered that the installation of obscure glazed windows would not cause an issue with overlooking as the agent has confirmed that the proposed windows are to be installed within the outer skin of the brickwork. In essence they would be false windows to break up a large expanse of brickwork and therefore they would not pose any loss of privacy issues. This can be controlled via condition. In this elevation there is also an existing door serving the garage, a door serving the utility room and a window serving a downstairs cloakroom, which are unlikely to cause issues with privacy.

6.14 With regard to the discrepancy over the boundaries, in summary the applicant maintains he has been sold less land than he originally bought and that part of his land is in the neighbours gardens. Regardless of this, the applicant simply wishes to regularise his development. This is in essence a civil issue and not one that the Local Planning Authority should be involved. Whilst the dwelling is built higher than the properties to the east a view should be considered as to what material difference the relocation of the house to the originally approved position would achieve in terms of visual affect to the surrounding properties.

6.15 It is considered prudent to acknowledge this independent advice for the Council and it is advised to approve the application subject to conditions to safeguard the future position and ensure no wholly unacceptable loss of privacy or amenity occurs.

RECOMMENDATION - APPROVE

1. Notwithstanding the submitted details the ground floor and first floor additional false obscured glazed windows to the rear of the property which overlooks 5 Eshton shall be inserted within the outer skin of the wall within 3 months of the date of this permission, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt
2. The hereby approved additional false windows shall be glazed with obscure glass which shall be retained at all times while the window(s) exist(s).
To prevent overlooking
3. The hereby approved trees within the landscaped strip shall be standard size as defined by section 11.1 of BS3936 Nursery stock: 'Part 1 Specification for trees and shrubs', and an organic form of mulching shall be provided in a 1metre diameter around the base of each newly planted standard tree, unless otherwise agreed in writing by the Local Planning Authority. The hereby approved landscape strip shall be retained for the life of the dwellinghouse, 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 and be implemented within 6 months of the hereby approved date.
In the interests of visual amenity.
5. 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 Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
6. 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) shall be inserted in any elevation of the hereby approved dwelling or garage without the prior written consent of the Local Planning Authority.
To prevent overlooking
7. Notwithstanding the submitted details the area above the garage shall be used for domestic purposes only and not for commercial or business purposes.
In the interests of the amenities of the occupants of neighbouring properties.
8. The previously approved obscure glazed window(s) referred to in H/FUL/0515/03 facing plot 261 shall be retained at all times while the window(s) exist.
To prevent overlooking

9. 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 curtilage building(s) shall be erected without the prior written consent of the Local Planning Authority.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
10. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 12th October 2005 unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt

**FERGUSON
MCILVEEN**

HARTLEPOOL BOROUGH COUNCIL

**SELF-BUILD HOUSING DEVELOPMENT
WYNARD WOODS**

PLOT 262 (& OTHERS)

PLANNING OPINION

Hartlepool Borough Council

22 April 2005

BT05011T

Hartlepool Borough Council		Plot 262 (& Others) Wynard Woods
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Ferguson McIlveen LLP

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1.0 PROLOGUE

- 1.1 At Wynard Woods there are a number of self-build housing plots that have recently been completed or are nearing completion. Following complaints to the local planning authority (LPA), Hartlepool Borough Council (HBC) in respect of the siting and design of Plot 262, further investigations indicated that there were potential anomalies with the siting of a number of other self-build units in the same locality.
- 1.2 Ferguson McIlveen LLP have been appointed to provide an independent opinion on how best to resolve these issues and make recommendations on what action, if any, should be taken.
- 1.3 Following discussions with the LPA and a background briefing by Case Officers, the location was visited and a summary schedule of issues drawn up. From this appraisal, followed by a subsequent review with the LPA Case Officers, recommendations have been set out in this report for consideration by the Borough Council.

4.0 CONCLUSIONS

- 4.1 Having regard for the provisions of the development plan, an important consideration is whether or not any departure from the siting shown on the approved plans for each plot is so material as to warrant refusal.
- 4.2 Development at all plots [REDACTED] was substantially completed at the time of inspection. It was therefore both possible and advantageous to consider the issues in the context of an 'as-built' situation.
- 4.3 Notwithstanding the various discrepancies in the implementation of approved plans, the conclusion is drawn that, subject to the caveats outlined in the attached schedule, it would be difficult to substantiate enforcement action against any of the amended siting of dwellings within the respective plots.
- 4.4 Nevertheless, where departures from the approved plans have occurred it would be prudent to invite applications to vary the existing approvals with the understanding that appropriate conditions, as recommended below, should be imposed to safeguard the future position and ensure no wholly unacceptable loss of privacy or amenity occurs.

5.0 RECOMMENDATIONS

5.1 For the reasons given in the schedule of issues, the following recommendations are made:

Plot No.	Recommendation
Plot 262	<ol style="list-style-type: none"> 1 The developer should be invited to make an application for approval of dwelling as now built. 2 The application should be approved subject to such conditions as LPA consider appropriate but to include a condition requiring (within 3 months) insertion of fenestration (together with obscure glazing) in the window reveals that are currently bricked up on the rear elevation. 3 Notwithstanding the provisions of the GPDO, a condition be imposed requiring that the obscure glazing inserted by virtue of

recommendation 2 above, be retained and not altered without the prior written approval of the LPA.

- 4 That both developers be encourage to implement some boundary landscaping. This will be of more benefit to individual parties than for public amenity or the estate as whole, and should be recognised as such by all concerned.

262 11 Gledstone	H/FUL/0515/03	D. Robson	Stephenson Johnson Riley	Plot 262 has been built in wrong location. Errors in setting out boundaries between Wimpey Development	Consensus that the dwelling has been built further back than approved, but disagreement over distance moved (between 1m-3m). Coming to the situation 'de novo' allowed an assessment of the development 'as built'. The striking contrast in size between houses on the	<p>Recommendation 1 The developer should be invited to make an application for approval of dwelling as now built.</p> <p>Recommendation 2 The application should be approved subject to such conditions as LPA consider appropriate but to include a condition requiring (within 3 months) insertion of fenestration (together</p>
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Fergusson McIlveen LLP

Hartlepool Borough Council

Plot 262 (& Others) Wynard Woods

Plot No. Address	Applic. No.	Name of Occupier	Agent	Issue	Comments	Recommendation
				(Eshton) and self-build sites to west has resulted in insufficient land to deliver anticipated intervening tree belt	Individual self-build plots and the Wimpey units was always going to be in existence following the approvals already granted. This relationship is made more intimate by the reduced distance between the developments that has limited the space available for a tree belt originally envisaged between the two areas of housing. These characteristics mean that the size and massing of the dwelling on Plot 262 in relation to Plot 268 would not be significantly improved by moving the dwelling on Plot 262 forward - even if that were the maximum of the disputed distance (i.e. 3 meters). Indeed the likelihood is that the, as yet, un-built property destined for Plot 263 could	with obscure glazing) in the window reveals that are currently bricked up on the rear elevation. Recommendation 3 Notwithstanding the provisions of the GPDO, a condition be imposed requiring that the obscure glazing inserted by virtue of recommendation 2 above, be retained and not altered without the prior written approval of the LPA. Recommendation 4 That both developers be encouraged to implement some boundary landscaping. This will be of more benefit to individual parties than for public amenity or the estate as whole, and should be recognised as such by all concerned.

Hartlepool Borough Council

Plot 262 (& Others) Wynand Woods

Plot No. Address	Applic. No.	Name of Occupier	Agent	Issue	Comments	Recommendation
					have a greater impact on Plot 268 than does Plot 262 which, itself, is at a more oblique angle and sited to the north-west, which means that effect on overshadowing will be reduced in comparison with a dwelling on Plot 263.	

Plot 262 Wynyard Woods



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 13.10.05
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5548	REV

No: 7
Number: H/2005/5320
Applicant: Mr T Bates 7 Brinkburn Court Hartlepool
Agent: 7 Brinkburn Court Hartlepool
Date valid: 05/07/2005
Development: Erection of a building for a horse livery business and the siting of a caravan for 3 years
Location: Brierton Moor House Farm Off Dalton Back Lane
 Hartlepool HARTLEPOOL

The Application and Site

7.1 The application site is located on the west side of Dalton Back Lane approximately half way between the A689 and Dalton Piercy. The applicant has recently purchased the agricultural holding which extends to some 80 acres. The unit does not currently enjoy the benefit of any buildings or dwellings. It is understood that a dwelling which once served the unit was demolished in the 1970's. The unit is bounded by agricultural land belonging to neighbouring units.

7.2 It is proposed to erect a building (12mx 39mx 8m high) for a horse livery business to support the unit. The application also seeks permission for the siting of a residential caravan for a period of 3 years which will serve the holding. The buildings will be sited on the south side of the existing access track close to the centre of the unit.

7.3 It is intended that the livery business will provide a range of services, including a range of livery services, grazing, transportation of horses, schooling of horses, recuperation of race horses, horse breeding and sales. The business will employ one full time person and two apprentices. The proposed caravan will be occupied by the yard manager. The applicant maintains a residential presence is required for security and animal welfare reasons.

Publicity

7.4 The application has been advertised by site notice and neighbour notification. Two letters of no objection were received.

The period for publicity has expired.

Consultations

7.5 The following consultation replies have been received:

Head of Public Protection & Housing: No objections.

Northumbrian Water: No objections.

Head of Technical Services: No objections.

Environment Agency: No comments.

Greatham Parish Council: No firm objections were raised however some doubts were forthcoming. It was hoped that care would be taken regarding the choice of materials. It was also hoped that care would be taken to ensure that no attempt would be made to use any approval of the present plan as a means for eventual conversion to approval for development as living accommodation.

Chief Accountant: Comments awaited.

Environmental Protection Manager: The construction detail for the building doesn't show what the building is to be constructed from also the foundation design is not shown. My main concern would be the possibility for build up of land fill gases inside a traditional brick/tiled building construction and therefore I would ask for a gas check or appropriate membrane to be installed in the foundation course.

Planning Policy

7.6 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen3: states that the Council will normally require provision to be made to enable access for all in all new development where public access can be expected, and in places of employment and wherever practicable in alterations to existing developments.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

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. States that the spread of the urban area into the surrounding countryside and undeveloped areas of coast beyond the urban fence line will be strictly controlled. Development other than that relating to countryside activities will not normally be permitted (the application site lies beyond the urban fence line).

RU1: states that proposals for outdoor recreational developments in rural areas will only be permitted if the open nature of the landscape is retained, the best agricultural land is protected from irreversible development, there is no disturbance to occupiers of adjoining or nearby properties or to countryside users, the local road network is adequate and adequate car parking can be provided.

RU2: Expansion beyond the defined village envelopes will not normally be permitted.

RU8: Housing will not normally be permitted in the open countryside unless it can be demonstrated that it is essential for the efficient functioning of agriculture, forestry, or other countryside activities and that the siting, design, scale and materials will not be significantly detrimental to the rural environment.

Ru12: states that proposals for outdoor recreational developments in rural areas will only be permitted if the open nature of the landscape is retained, the best agricultural land is protected from irreversible development, there is no disturbance to occupiers of adjoining or nearby properties or to countryside users, the local road network is adequate and adequate car parking can be provided.

Rur1: states that the spread of the urban area into the surrounding countryside beyond the urban fence will be strictly controlled. Proposals for development in the countryside will only be permitted where they meet the criteria set out in policies Rur6, Rur10a, Rur11, Rur13 or where they are required in conjunction with the development of natural resources or transport links.

Rur10a: states that farm diversification schemes related directly to the rural economy will be permitted where any adverse effects on the best agricultural land are minimised, existing farm buildings are reused, there is no significant detrimental effect on amenity and they do not generate significant additional traffic onto rural roads.

Rur11: states that isolated new dwellings in the countryside will not be permitted unless necessary in relation to agricultural, forestry, or other approved or established uses in the countryside and subject to appropriate siting, design, scale and materials. The policy also sets out criteria for determining applications for new houses on single infill sites within hamlets or groups of houses and for one for one replacement dwellings. Infrastructure including sewage disposal must be adequate.

Rur16: states that proposals for outdoor recreational developments in rural areas will only be permitted if the open nature of the landscape is retained, the best agricultural land is protected from irreversible development, there are no new access points to

the main roads, the local road network is adequate, the amount of new building is limited and appropriately designed, sited and landscaped, there is no disturbance to nearby occupiers, countryside users or the natural habitat and adequate car parking can be provided. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

Rur6: sets out the criteria for the approval of planning permissions in the open countryside including the development's relationship to other buildings, its visual impact, its design and use of traditional or sympathetic materials, the operational requirements of agriculture and forestry and viability of a farm enterprise, proximity of intensive livestock units, and the adequacy of the road network and of sewage disposal. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

Planning Considerations

7.7 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals within the Hartlepool Local Plan.

7.8 The proposal includes two related elements the provision of a building to support an equestrian business (including livery, horse sales, schooling and breeding) on the unit and the provision of a caravan to provide an on site residential presence for welfare and security reasons.

7.9 Policy Rur10a supports appropriate farm diversification proposals which can include proposals related to outdoor recreation.

7.10 Policy Ru8 and Rur11 indicate that in general isolated dwellings in the open countryside will not be permitted unless they are essential for the efficient functioning of an approved or established countryside use.

7.11 Government Advice contained in PPS7 (Sustainable development in rural areas) whilst seeking to protect the countryside from inappropriate development supports farm diversification including equine related activities which fit well with farming activities and help to diversify rural economies. If a dwelling is required to support a new enterprise PPS7 advises that the applicant should demonstrate clear evidence of a firm intention and ability to develop the enterprise, that there is a functional need, clear evidence that the enterprise has been established on a sound financial basis, clear evidence the need could not be fulfilled by another existing dwelling on the unit or in the area and should satisfy other normal planning requirements (siting/access etc). The advice also states that the enterprise itself including any development necessary for the operation of the enterprise must be acceptable in planning terms and permitted in that rural location.

7.12 A key consideration is therefore whether the enterprise has been planned on a sound financial basis. The details of the proposed business have therefore been passed to the Chief Accountant for comments. It is hoped that these comments will be available shortly. An update report will follow.

RECOMMENDATION – Update report to follow.

Brierton Moor House Farm



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 11.10.05
	SCALE 1:4000	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5320	REV

No: 8
Number: H/2005/5742
Applicant: Mr D Murphy Royal Mail Clark Street Hartlepool
Agent: Delivery Planning Royal Mail Lindisfarne House Earlsway
 Tute Gateshead
Date valid: 08/09/2005
Development: Siting of a Royal Mail pouch box
Location: Land Adjacent To 2 Bilsdale Road Seaton Carew
 Hartlepool

The Application and Site

8.1 The site to which this application relates is an area of Council owned public open space on the corner of Bilsdale Road and Kildale Grove within a predominantly residential area. The proposed site is to the east of 2 Bilsdale Road close to the public footpath.

8.2 The application seeks to erect a Royal Mail pouch box upon the land for use in conjunction with postal deliveries on foot. Mail can be stored in the box while the postman or woman delivers a small number of letters to specific areas on his or her round. The proposed pouch box incorporates a grey metal box (which will stand 1.36m in height at its highest point, 45cm wide and 40cm deep) on top of a 70cm high pedestal.

Publicity

8.3 The application has been advertised by way of neighbour letters (4) and site notice. To date, there have been 3 letters of objection

8.4 The concerns raised are:

1. Congregation point for youths
2. Subject to anti-social behaviour i.e. graffiti
3. An alternative site on Brompton Walk would be more suitable

The period for publicity has expired.

Consultations

8.5 The following consultation replies have been received:

Head of Traffic and Transportation:- no objection

Head of Public Protection:- comments awaited - informally no objection

Head of Property Services:- comments awaited - informally no objection

Head of Neighbourhood Services:- comments awaited - informally no objection

Planning Policy

8.6 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

Planning Considerations

8.7 The main considerations in this instance are the potential impact of the development upon the character of the street scene, highway safety and the potential to attract anti-social behaviour.

8.8 The Traffic and Transportation section have raised no objection to the proposal. As the box is to be situated upon the grassed area instead of the pavement it is unlikely to create an impact upon pedestrian movements along the footpath.

8.9 The nearby residents have raised the potential for anti-social behaviour as an objection to the proposal. However, the Council's Anti Social Behaviour Unit and Cleveland Police Anti Social Behaviour Unit have raised no objection to the siting of pouch boxes. They advise that generally they are not large enough to act as a gathering point. They have also highlighted that they have no records of anti-social behaviour associated with them.

8.10 It is anticipated that the pouches will be delivered to the boxes between 8:30 and 9:30 on a morning (but could be later depending on volume of mail). The Postman/postwoman will pick up the pouches from the boxes between 10:00 – 12:30. It is envisaged that the deliveries would only be made once a day. It is therefore considered unlikely that the proposed deliveries/collections would be at times of the day which would have the potential to create detrimental noise disturbance to the amenities of the nearby residential properties.

8.11 It is considered unlikely, given the relatively small proposal in terms of the scale of the surrounding properties and the green space on which it is proposed that it would create a detrimental impact upon the character of the street scene or upon the outlook of nearby residential properties.

8.12 The objectors have highlighted an alternative site to which they feel would be more suited to this type of proposal, however this can not be considered material to this application as each application must be determined on its own merits.

8.13 It is for the reasons stated above that the application is recommended for approval.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. Prior to the commencement of the development hereby approved, details of the exact location of the development shall be submitted to and agreed in writing by the Local Planning Authority
In the interests of highway safety.

Bilsdale Road



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 10.10.05
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5752	REV

No: 9
Number: H/2005/5754
Applicant: Royal Mail Clark Street Hartlepool
Agent: Delivery Planning Royal Mail Lindisfarne House Earlsway
 Team Valley Trading Estate Gateshead NE11 0YY
Date valid: 08/09/2005
Development: Siting of a Royal Mail pouch box
Location: Land Opposite 48/50 Irvine Road Hartlepool

The Application and Site

9.1 The site to which this application relates is a strip of Council owned land which fronts the highway directly opposite 48/50 Irvine Road.

9.2 The application seeks to erect a Royal Mail pouch box upon the land for use in conjunction with postal deliveries on foot. Mail can be stored in the box while the postman or woman delivers a smaller number of letters to specific areas on his/her round. The proposed pouch box incorporates a grey metal box (which will stand 1.36m in height at its highest point, 45cm wide and 40cm deep) on top of a 70cm high pedestal (matt black in colour).

Publicity

9.3 The application has been advertised by way of neighbour letters (4) and site notice. To date, there have been 3 letters of objection: -

9.4 The concerns raised are:

1. Congregation point for youths
2. Subject to anti-social behaviour i.e. graffiti
3. Noise from delivery on a morning
4. Possibility of box being broken into
5. Attraction for dogs to use as a toilet

The period for publicity has expired.

Consultations

9.5 The following consultation replies have been received:

Head of Traffic and Transportation - no objections

Head of Public Protection and Housing – comments awaited, informally no objections

Head of Property Services- comments awaited, informally no objections

Planning Policy

9.6 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

Gen1: lists criteria against which all applications will be assessed. Those, where relevant, are appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, trees, landscape features, wildlife and habitats, and the need for high standards of design and landscaping.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

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

Planning Considerations

9.7 The main considerations in this instance is the potential impact of the development upon the character of the street scene, highway safety and the potential to attract anti-social behaviour.

9.8 The Head of Traffic and Transportation has raised no objection to the proposed development. The proposed site is not close to or upon a public footpath and as such it is considered unlikely that the proposal would create a detrimental impact upon pedestrian movements.

9.9 The Council's Anti-Social Behaviour Unit has raised no objection to the proposal, as generally, pouch boxes are too small to act as a congregation point for youths. They have no records of any complaints/issues relating to them. Cleveland Police Anti-Social Behaviour Unit and the Crime Prevention Officer also have no objections to the proposal and no history relating to them. The Royal Mail have indicated that there have been a few boxes which have been vandalised in the past in terms of graffiti however these are the exception and not the rule. The proposed pouch box will be in a location, which is highly visible from both nearby residential properties and the nearby highway, and as such it can be properly policed.

9.10 Due to the small size of the proposal in relation to the nearby properties and the large area of open space where it is proposed, it is considered unlikely that the proposal will have a detrimental impact upon the character of the street scene. The

proposed pouch box is positioned approximately 14m from the front windows of the properties opposite. Taking into account the proposed height and colour of the pouch box and the distance from the primary windows to the front of the properties opposite, it is considered unlikely that it will have a detrimental impact upon the outlook enjoyed by the nearby properties.

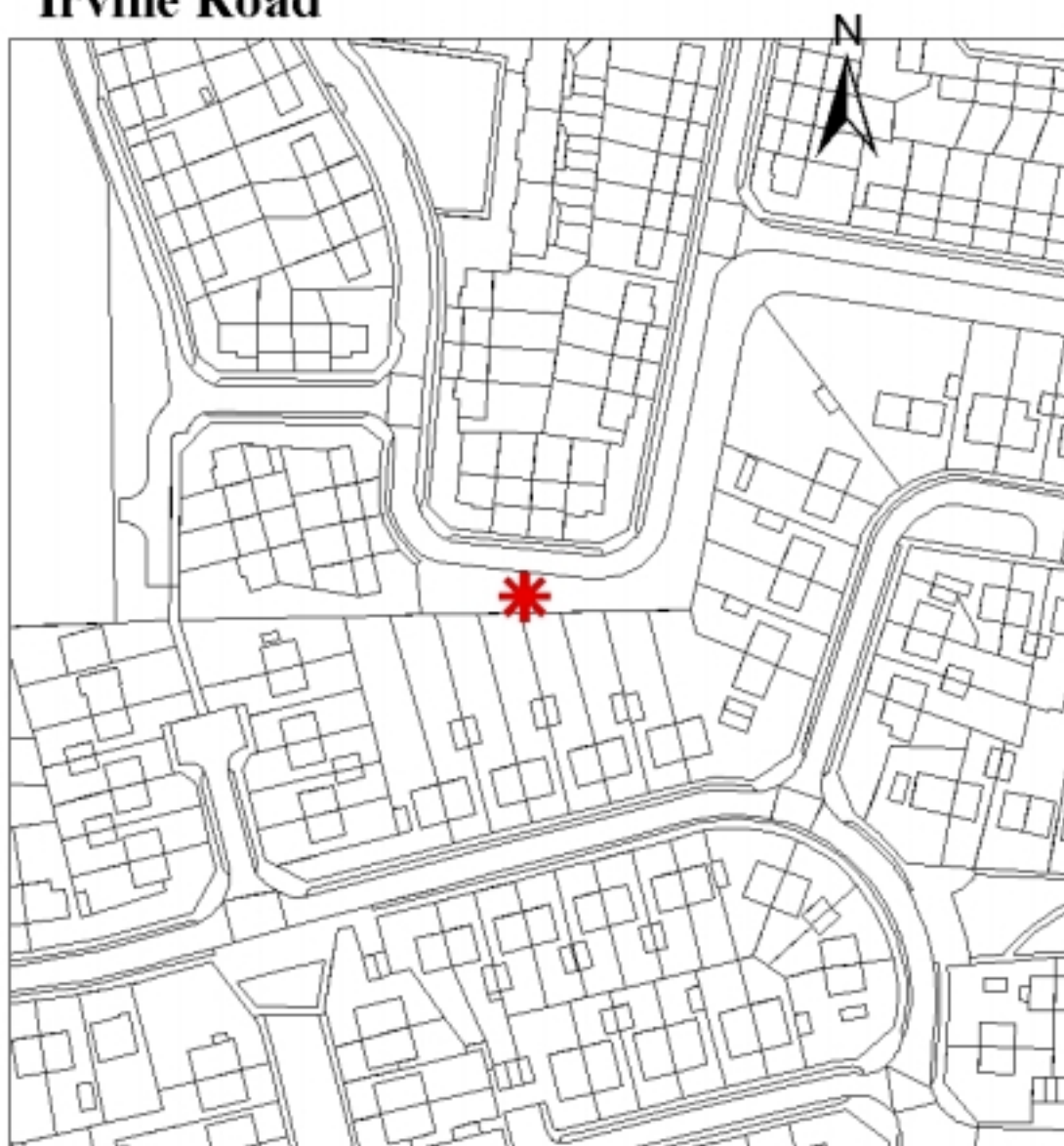
9.11 It is anticipated that the pouches will be delivered to the boxes between 8:30 and 9:30 on a morning (but could be later depending on volume of mail). The postmen/postwomen would pick up the pouches from the boxes between 10:00 – 12:30. It is envisaged that the deliveries would only be made once a day. It is therefore considered unlikely that the proposed deliveries/collections would be at times of the day which would have the potential to create detrimental noise disturbance to the amenities of the nearby residential properties.

9.12 The proposal is similar to other pouch box developments within Hartlepool.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. Prior to the commencement of the development hereby approved, details of the exact location of the development shall be submitted to and agreed in writing by the Local Planning Authority.
In the interests of highway safety.

Irvine Road



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 10.10.05
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5754	REV

No: 10
Number: H/2005/5387
Applicant: Mr I Miah 34 GRANGE ROAD HARTLEPOOL TS26 8JB
Agent: 34 GRANGE ROAD HARTLEPOOL TS26 8JB
Date valid: 11/07/2005
Development: Provision of UPVC windows and door (retrospective application)
Location: 34 GRANGE ROAD HARTLEPOOL HARTLEPOOL

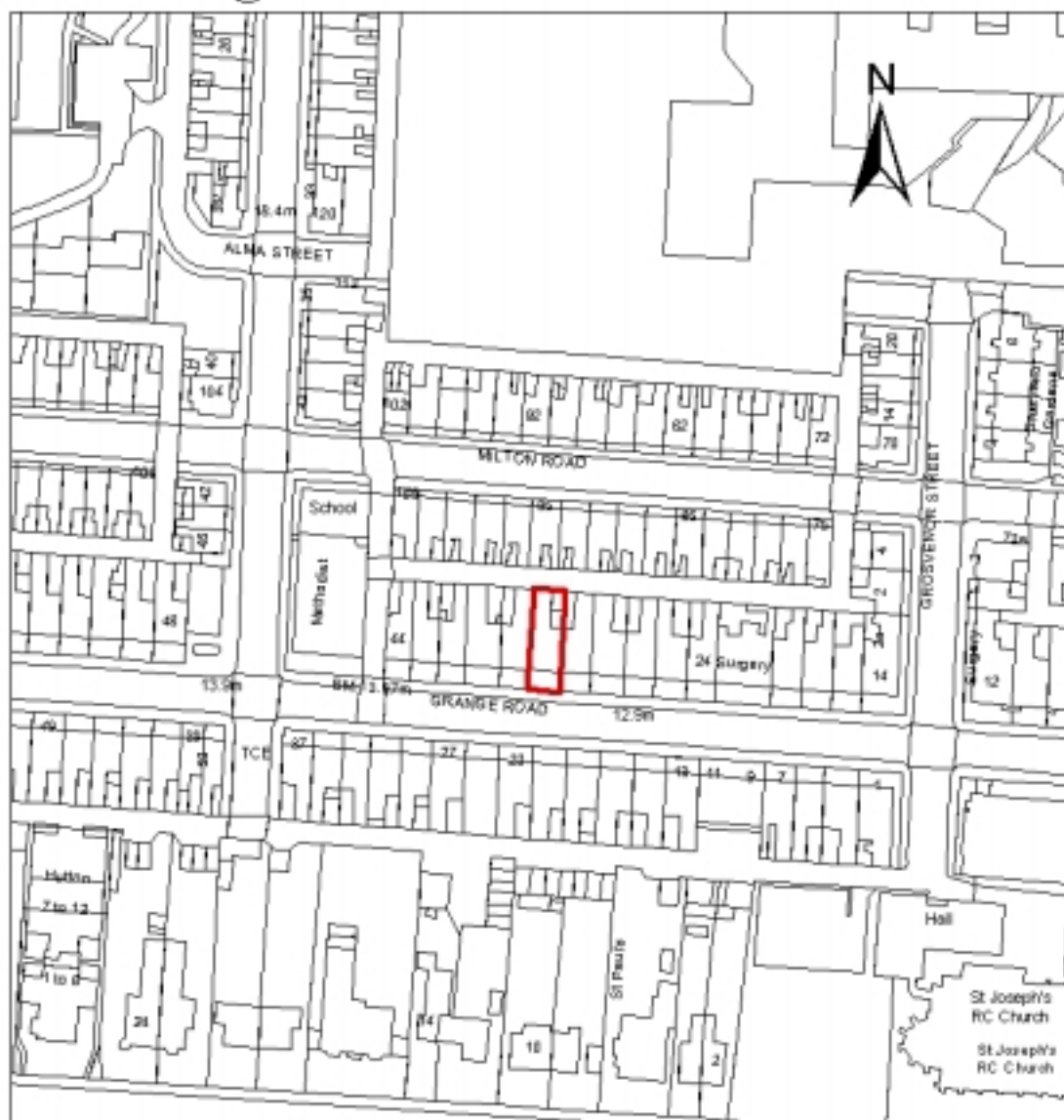
UPDATE

10.1 This application was reported to the Planning Committee of 31st August 2005 with a recommendation of refusal.

10.2 It was deferred at the Planning Committee to allow the opportunity for further discussions with the applicant. Discussions are ongoing and it is hoped they will be concluded before the meeting.

RECOMMENDATION – Update report to follow.

34 Grange Road



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 15.8.05
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5387	REV

No: 11
Number: H/2005/5809
Applicant: Mrs J H Shenava 25 Ashwood Close Hartlepool TS27 3QX
Agent: 25 Ashwood Close Hartlepool TS27 3QX
Date valid: 26/09/2005
Development: Incorporation of land into curtilages of properties
Location: Land To The Rear Of 24-32 Ashwood Close And The Side Of 23 Ashwood Close Hartlepool

The Application and Site

11.1 Detailed planning permission is sought for change the use of public amenity open space to private garden land. The land in question forms a long strip of level land running immediately to the rear or side of Ashwood Close properties. At its southern end the strip borders a steep embankment which levels off to the north. The land is within the ownership of the Council.

11.2 It is proposed to enclose the land with a fence around 6 foot in height.

11.3 It is understood that for some time residents have been suffering nuisance associated with various aspects of anti-social behaviour occurring on the application site. Residents therefore regard the proposed enclosure of the land in question as a means of deterring such behaviour

11.4 The application represents a departure from policies in the adopted Hartlepool Local Plan.

11.5 It should be noted that at the Committee meeting on 3 August 2005 Members were minded to approve a similar application for the enclosure of land to the rear of nos. 33 – 35 Ashwood Close. This resolution was later ratified by the Government Office for the North East.

Publicity

11.6 The application has been advertised by way of neighbour letters (27) and also by site and press notice. There have been 2 letters raising no objections.

The publicity exercise expires after the meeting

Consultations

11.7 The following consultation replies have been received:

Anti Social Behaviour Unit: Between February and July 2005 there have been seven complaints from local residents about anti-social behaviour and nuisance in the local area linked to young people.

In addition information obtained by the Unit from Cleveland Police reveals a further 22 incidents which have been reported to the Police during the period of 1st April 2004 – 31st March 2005. These incidents break down into 1 deliberate fire, 6 incidents of criminal damage, 2 disturbances, 5 incidents classed as disorder and a further 8 incidents classed as personal/social/community. (this includes drunkenness, domestic disputes, civil disputes, racial/ethnic/homophobic incidents, noise nuisance and neighbour disputes)

Head of Neighbourhood Services: Comments awaited

Head of Technical Services: Comments awaited

Planning Policy

11.8 The following policies in the adopted Hartlepool Local Plan 1994 and the Revised Deposit Hartlepool Local Plan 2003 are relevant to the determination of this application:

En4: states the loss of public open space will normally be resisted.

En5: states that landscaped open space should be provided as an integral part of new housing developments. In particular landscaped corridors should be provided and should include, where appropriate, an adequate footpath network.

Gen4: 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.

GEP1: states that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Where appropriate 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 as appropriate 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.

GEP11: states that permitted development rights may, in exceptional circumstances, be withdrawn where the Council considers that there is a threat to local amenity and further protection of the character of an area is required.

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

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

GEP9: states that where appropriate 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 would be sought.

GN6: resists the loss of incidental open space, other than in the exceptional circumstances set out in the policy. Compensatory provision or enhancement of nearby space will be required where open space is to be developed.

Planning Considerations

11.9 The main issues to be considered in this case are as follows:-

- i) The relevance of policies with the Local Plan.
- ii) Impact on visual amenity of the estate
- iii) Significance of anti-social behaviour
- iv) Precedent issues

Policy Issues

11.10 Policy GN6 relating to open space has been slightly amended and has not been subject to objection at the revised deposit stage. It therefore now has considerable weight as a relevant policy.

11.11 Generally the loss of public open space should be resisted unless it can be demonstrated that the area of open space is detrimental to the amenities of adjoining or nearby properties. It is up to the applicant and others to supply supporting evidence to justify the loss of the land to overcome problems arising from misuse of the land. In the absence of such evidence the application should be resisted. A case can be made in this instance (see below).

11.12 However in the event of the loss of the open space being justified and approved the LPA should consider where appropriate whether conditions should be imposed or agreements sought to ensure compensatory provision or enhancement of adjoining open space.

Visual amenity issues

11.13 The strip of land that is subject to this application is part of a much broader expanse of amenity open space that includes an extensive embankment. The land forms part of a narrow ledge at the top of the embankment. A footpath runs parallel to the base of the bank connecting Ashwood Close with Muirfield Walk. Between Ashwood Close and Muirfield Walk there is an abrupt change in ground level.

11.14 The enclosure and loss of the space is not considered to be unduly harmful to the public realm in visual terms taking into account that it comprises a relatively small portion of a much larger area.

11.15 At its nearest point the revised fenceline would be some 14 metres from the frontages of dwellings on Muirfield Walk. Within the intervening area there is an established belt of mature trees. Taking these factors into account the impact of the revised fenceline on the outlook from properties on Muirfield Walk is considered to be negligible.

Anti-social behaviour issues

11.16 The Police (Anti-Social Behaviour Division) have commented that there have been complaints from local residents as a result of young people congregating on the land and engaging in various types of anti-social and disorderly activities. These occurrences need to be balanced against the impact of the permanent loss of amenity open space.

11.17 It would appear that the level nature of the land at the top of the embankment makes it attractive as a social gathering point. Its enclosure is likely to deter such gathering. As the embankment levels off northwards the attractiveness of the ledge top position is clearly less of a factor. Indeed the land subject to this application at the side of no. 23 Ashwood Close is quite level in relation to the garden of that property. It should however be noted that the garden area of that property tapers to the rear and the enclosure of land would help to give occupiers a degree of relief from potential nuisance and disturbance.

11.18 Alternative ways of combating such problems have been examined but are not considered to be appropriate in this case.

11.19 Such measures include additional planting although it was considered that this might hinder surveillance providing additional cover to anybody engaged in anti-social behaviour.

11.20 Grading the site into the slope of the embankment therefore removing its attraction as a level gathering point was considered inappropriate as this might have an adverse impact on the stability of resident's garden land.

Conclusion

11.21 The Local Planning Authority exercises strict control over the change of use of amenity open space within the Borough. Open space is essential to the enjoyment of residential estates both in visual and recreational terms. Its loss should not be permitted lightly.

11.22 In this case however the land is part of a much broader expanse and in terms of visual impact would appear relatively insignificant. It is mainly involves the narrow ledged area at the top of the embankment which because of its well defined edge is considered unlikely to establish a precedent that would lead to substantial further loss.

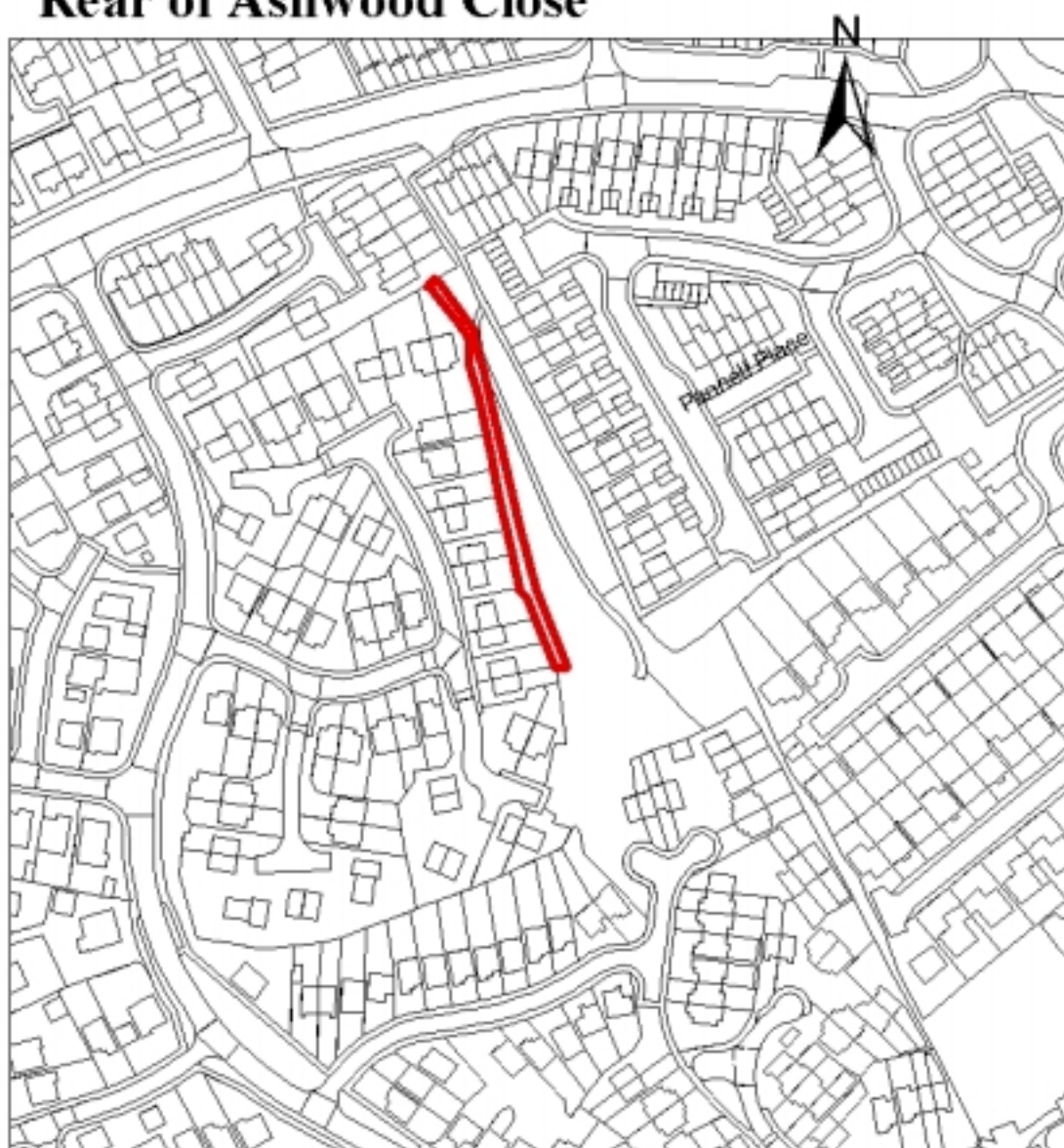
11.23 Under the circumstances it is considered reasonable to conclude that the significance of abuse of the land in this case outweighs in importance the value of protecting the open space.

11.24 With respect to the requirements under Policy GN6 to examine where appropriate the need for alternative provision or enhancement of existing open space, it is considered appropriate in this case to impose a condition requiring some boundary planting inside the revised fenceline.

RECOMMENDATION –APPROVE subject to no objections from outstanding consultees or members of the public, but given the Hartlepool Local Plan allocation and Council ownership the application be referred to GONE for consideration.

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. 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.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
4. 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.

Rear of Ashwood Close



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 13.10.05
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5809	REV

No: 7
Number: H/2005/5320
Applicant: Mr T Bates 7 Brinkbum Court Hartlepool
Agent: 7 Brinkbum Court Hartlepool
Date valid: 05/07/2005
Development: Erection of a building for a horse livery business and the siting of a caravan for 3 years
Location: Brierton Moor House Farm Off Dalton Back Lane
 Hartlepool HARTLEPOOL

PLANNING UPDATE

Background

This application appears on the main agenda at item 7.

The recommendation was left open as a key consultation was outstanding this has now been received.

Consultations

Chief Accountant - I have had a brief look at the copy of the business plan submitted in connection with the above application. The proposal covers a specialised area but I have been able to glean some information from the wwwweb. This gives details of stabled livery charges. The application is based on 70% occupancy at a lower charge so this seems a prudent estimate. From other details available on the internet regarding the charges made for the other services described, the income projections also appear modest. Against this some of the projected costs also appear low (eg trainee wages for 2 persons = £2,400 pa, motor expenses £1,300 pa) but on balance the net income projection is not unreasonable and I would not oppose this application on financial grounds.

Planning Consideration

The Chief Accountant has reviewed the information submitted by the applicant, including business projections. He has concluded overall that the net income projection is not unreasonable and that he would not oppose this application on financial grounds.

It is considered that on balance the information submitted by the applicant has demonstrated an intention and ability to develop the enterprise, and that the enterprise has been planned on a sound financial basis.

The applicant has confirmed his intention to farm the unit and introduce livestock as well as pursuing the proposed diversification into livery. The proposed caravan will serve the needs of both elements of the business. Whilst a dwellinghouse existed on the unit historically this was demolished in the 1970's and there is currently no residential accommodation serving the unit. Additionally outline planning permission was granted for a replacement house but for whatever reasons this did not proceed

and has lapsed. The unit is relatively isolated, some 2.5 km from Dalton Piercy the nearest village, and the applicant maintains there is a need for a residential presence on site for security and animal welfare reasons. A recent review of planning appeal records shows that in a number of cases there has been support for a residential presence on the site of horse related enterprises and the needs of the agricultural side of the business would further strengthen the case. On balance therefore it appears that there is a case for a residential presence on site in the interests of security and animal welfare. A residential presence would also support the development of the business. It is considered appropriate however to impose a condition restricting permission for the caravan to a temporary period of three years. This is in line with government advice and will allow the applicant the opportunity to establish the business and for the situation to be reviewed.

The caravan would be located close to the proposed buildings and the access track. The applicant has been asked to consider siting the caravan slightly closer to the proposed livery building and is agreeable to this. It will be visible from Dalton Back Lane however it is not considered that the siting will be unduly prominent in the wider landscape. The applicant has however been asked to consider a tree planting scheme to help integrate the structure into the landscape and is agreeable to this. It is proposed that both these matters be conditioned.

In terms of the proposed livery building there are currently no buildings serving the unit and clearly a building would be required to support the type of business proposed. A business which in policy terms would be considered acceptable as a form of farm diversification to support the rural economy. The proposed siting which is in a relatively low lying part of the site, located off the main access track and adjacent to the proposed location of an agricultural building is not unreasonable. It will clearly be visible from Dalton Back Lane however it is not considered that it will be unduly prominent in the wider landscape. The applicant has however been asked to consider a tree planting scheme to help integrate the building into the landscape and is agreeable to this. The location of passing places on the track also needs consideration to avoid disturbance of an adjacent hedge. Conditions are proposed in relation to both these issues.

The proposals are considered acceptable and are recommended for approval.

RECOMMENDATION - APPROVE

1. The development hereby approved shall be begun not later than five years from the date of this permission.
To clarify the period for which this part of the permission is valid.
2. The caravan shall only be brought onto the site when there has been a material start on the construction of the approved livery building.
To ensure the caravan is only on site to support the development of the business in accordance with the application.
3. The permission for the caravan is valid for three years from the date a material start is made on the approved livery building. On the expiry of the three year period the caravan shall be removed from the site and the land restored to its former condition in accordance with a scheme of work to be

submitted to and approved in writing by the Local Planning Authority unless the prior written consent of the Local Planning Authority has been obtained to an extension of this period. The applicant shall advise the Local Planning Authority in writing of the date of the material start on the approved livery building within 14 days of the start date.

To ensure the caravan is on site to support the development of the business and to enable the Local Planning Authority to monitor/review the situation to ensure that there is a need for the caravan. The caravan is not considered suitable for permanent retention on the site.

4. Prior to the caravan being sited details of its precise location shall be submitted to and approved in writing by the Local Planning Authority. The caravan shall be sited in accordance with the approved details.
In order to ensure that the caravan is sited to minimise any visual intrusion.
5. The occupation of the caravan shall be limited to a person solely or mainly employed in the agricultural/livery business operating from the unit (Brierton Moor House Farm) together with any resident dependents.
To ensure that the caravan is not used as general residential accommodation.
6. Details of all external finishing materials of the livery building shall be submitted to and approved by the Local Planning Authority before this part of the development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
7. A detailed scheme of tree planting in line with Tees Forest principles 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, species and location of the planting, 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 the visual amenity of the area.
8. 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.
9. The livery building hereby approved shall be used only for livery purposes, and not for any other use, including any other business use unless otherwise agreed in writing with the Local Planning Authority.
For the avoidance of doubt and in the interests of the amenity of the area.
10. Prior to their installation the precise location and details of the proposed passing places along the access track shall be submitted to and approved in writing by the Local Planning Authority. The passing places shall thereafter be installed in accordance with the approved details.
In order to ensure that the passing places are located and installed in such a way as to minimise damage to the adjacent hedge.
11. Prior to the commencement of development details of the proposed means of disposal of foul sewage arising from 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 scheme at the time of

development unless otherwise agreed in writing with the Local Planning Authority.

In order to avoid pollution of the environment.

12. No riding lessons, competitions, gymkhanas or events which would encourage visiting members of the public to the site shall be held at any time at the site without prior planning permission.
To ensure that the site and building operates in a way which will not be detrimental to the amenities of the area.
13. Notwithstanding the submitted details, the final siting, size and construction details of the parking area shall be agreed in writing by the Local Planning Authority. The scheme shall include provision for the parking of trailers and/or horse boxes. The parking area shall thereafter be constructed in accordance with the approved details.
To ensure a satisfactory form of development in the interests of the visual amenities of the area.
14. There shall be no burning of materials or waste at the site.
In interests of the amenities of the area.
15. No fixed jumps shall be erected at the site.
In the interests of the amenities of the area.
16. Details of the siting of any temporary jumps to be used in the exercising of horses kept at the site shall be first agreed in writing by the Local Planning Authority. Temporary jumps shall thereafter only be sited in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
In the interests of the amenities of the area.
17. No floodlight(s) or tannoy system(s) of any type shall be used or erected at the site.
In the interests of the amenities of the area.
18. Unless otherwise agreed in writing with the Local Planning Authority prior to the commencement of development either; i) a test for the presence of landfill gas shall be made in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. If landfill gas is detected then a scheme to incorporate appropriate landfill gas protection measures shall be submitted to and approved in writing by the Local Planning Authority. The landfill gas protection measures so approved shall be incorporated into the development at the time of development; or ii) a scheme to incorporate appropriate landfill gas protection measures shall be submitted to and approved in writing by the Local Planning Authority. The landfill gas protection measures so approved shall be incorporated into the development at the time of development.
To protect the occupants from the incursion of landfill gas.

No: 10
Number: H/2005/5387
Applicant: Mr I Miah 34 GRANGE ROAD HARTLEPOOL TS26 8JB
Agent: 34 GRANGE ROAD HARTLEPOOL TS26 8JB
Date valid: 11/07/2005
Development: Provision of UPVC windows and door (retrospective application)
Location: 34 GRANGE ROAD HARTLEPOOL HARTLEPOOL

UPDATE

10.1 This application was reported to the Planning Committee of 31st August 2005 with a recommendation of refusal.

10.2 It was deferred at the Planning Committee to allow the opportunity for further discussions with the applicant. A meeting will take place on 21 October 2005 and Members will be updated at the meeting.

RECOMMENDATION – Update at meeting.

Report of: Assistant Director, Planning & Economic Development

Subject: APPEAL BY K JOHNSON, SITE AT 86-88 YORK ROAD, HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 The above planning appeal against the refusal of the Planning Authority to allow the change of use of the above property to ground floor public house, first floor restaurant and second floor storage area with a new ground floor frontage has been determined.

2 INFORMATION

- 2.1 The appeal was **dismissed**. The Inspector concluded that the proposal would have a detrimental impact on the living conditions of the occupiers of nearby dwellings in line with this authority's first reason for refusal. The Inspector however did not support the second reason for refusal relating to highway concerns. A partial award of costs was therefore made. A copy of the Inspector's letters are attached.

3. RECOMMENDATION

- 3.1 That members note the outcome of the appeal.



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

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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.

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 GEPI 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

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

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

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

Other Matters

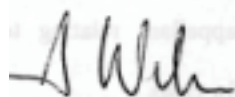
19. I have had regard to the decisions that have been taken by the Council relating to other food and drink uses in the area and to the appeal decisions submitted by both parties in support of their cases. However, I do not consider that these other developments are directly comparable with the appeal 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

APPEARANCES

FOR THE APPELLANT:

Mr K Johnson	The appellant
Mr E Jackson MRTPI	Jacksonplan Ltd, 7 Amble Close, Hartlepool, TS26 0EP

FOR THE LOCAL PLANNING AUTHORITY:

Mr J P Ferguson BA(Hons) MA Senior Planning Officer, Hartlepool Borough Council
MRTPI

INTERESTED PERSONS:


Mr C Broadbent	26 Dent Street, Hartlepool, TS26 8AY
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DOCUMENTS

Document	1	List of persons present at the Hearing
Document	2	Press Notice
Document	3	Appendices 1-9 to Mr Jackson's evidence (bound)
Document	4	Appendices 1-6 to Mr Ferguson's evidence (bound)
Document	5	A unilateral planning obligation submitted by the appellant relating to developer contributions
Document	6	A written application from the appellant for a full award for costs

PLANS

Plans	A (1-7)	The application plans
Plan	B	A plan of the locality submitted by Mr Broadbent showing the site in relation to the residential properties nearby

	<h2>Costs Decision</h2> <p>Hearing and site visit held on 31 August 2005</p> <p>by Anthony J Wilson BA(Hons) MA DipLA MRTPI</p> <p>an Inspector appointed by the First Secretary of State</p>	<p>The Planning Inspectorate 409 Kite Wing Temple Quay House 2 The Square Temple Quay Bristol BS1 6PN ☎ 0117 372 6372 e-mail: enquiries@planning-inspectorate.gov.uk</p> <p>Date</p>
	<p>04 OCT 2005</p>	

Costs application in relation to Appeal Ref: APP/H0724/A/04/1165129
86/88 York Road, Hartlepool, TS26 8AB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr K Johnson for a full award of costs against Hartlepool Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for 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.

Summary of Decision: The application is allowed in the terms set out below in the Formal Decision and Costs Order.

The Submissions for Mr K Johnson

1. The application is for a full award of costs, under paragraph 7 of Annex 3 of Circular 8/93, on the basis that a planning authority should not prevent, inhibit or delay development which could reasonably be permitted, in the light of the development plan, so far as it is material to the application, and any other material considerations. The applicant seeks an award of costs relating to the unnecessary expense resulting from the Council's unreasonable decision to refuse planning permission for proposals which clearly accord with existing and proposed statutory planning policy.
2. In relation to the first reason for refusal, the applicant considers that the proposals will not adversely affect highway safety and that the Council's reasoning ignores the professional advice given by its officers and takes no account of the local car parking and transport facilities that exist only a short distance from the site. The appellant's offer to enter into an agreement to provide guard railings and alterations to the Traffic Regulation Orders, requested by the highway officers, was also ignored.
3. In relation to the second reason for refusal, the applicant considers that the Council again ignored the advice of its officers, preferring to accept the unsubstantiated objections from a local resident who addressed the committee. In doing so, the Council ignored the physical relationship between the appeal premises and the residential properties located to the north and west, on the fringes of the town centre. The location of other similar uses located to the north of the appeal site, closer to the nearest dwellings, was also disregarded in the Council's consideration of the application.
4. The applicant concludes that by failing to produce any material evidence to support either of its 2 reasons for refusal, the Council has unreasonably and unacceptably delayed the implementation of his proposals.

The Response by Hartlepool Borough Council

5. In reply, it was acknowledged that when making its decision the Council reached a different conclusion to its officers, but it was not accepted that it acted unreasonably. Whilst the Council recognised that the site is within the town centre, in an area where public house and restaurant uses may be acceptable, it does not always follow that they should be automatically approved. Caveats within the relevant development plan policies require that due regard must be had to the impact of the development on the amenity of residential properties in the vicinity, and on highway safety and efficiency. Having considered the officer's report, together with the comments from the applicant, from the objectors and from the consultees, the Council took the view that the proposals would have a detrimental impact on both of these issues. It was further argued that the Council are entitled to give different weight to the relevant planning issues and that the reasons given by Members for their decision are valid material planning considerations. The Council also considers that it has subsequently offered sufficient evidence to substantiate both reasons for refusal.
6. On the matter of unreasonable delay, the Council asserted that, in part, this was caused by the choice of appeal procedure, indicating that if the applicant had chosen the written representations route for his appeal he would have received a decision much earlier.

Inspector's Reasoning

7. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
8. In respect of the highway issue, the Council had the benefit of advice from an officer from its Technical Services department. This indicated that there were major concerns about the impact of the proposals arising from taxis parking outside the appeal site on the approach to the traffic light controlled junction. However, the considered advice was that it would be difficult to argue against the proposal as it is within the town centre and on a bus priority route. The advice went on to suggest measures to be incorporated into planning conditions to deal with the problems that had been identified. I understand that there was separate dialogue between the applicant and the highway staff and that there was agreement to these measures *before* the planning application was determined.
9. In my decision on the appeal (paragraph 16), I concluded that the suggested pedestrian barrier and amended Traffic Regulation Orders would be an effective deterrent to kerbside parking and manoeuvring, and would satisfactorily overcome any highway safety concerns. Such matters are also sufficiently straightforward to be appropriately covered by a planning condition, as recommended by the Council's Technical Services Officer. I consider that in failing to properly consider whether its concerns over highway safety could be appropriately and satisfactorily overcome by the imposition of a reasonable planning condition, the Council acted unreasonably.
10. As part of its case at appeal, the Council has subsequently submitted written and photographic evidence of taxi driver behaviour on Victoria Road, in an attempt to demonstrate the type of unacceptable parking and manoeuvring that would occur at the appeal site and which gave rise to their concerns for highway safety. However the Victoria Road frontage is not provided with kerbside safety barriers and, therefore, I do not consider

that a comparison with the unprotected footway in front of the appeal site is appropriate. A more accurate comparison would have been with the commercial frontages along York Road, south of the traffic lights, where such barriers very effectively deter kerbside parking on the frontages on both sides of the road. The Council argued that barriers would be an inappropriate solution because of the need for a gap in any barrier to allow pedestrians to cross the road at the junction. It was considered that the gap would be so close to the appeal site that drivers would stop alongside any barrier to allow passengers to make use of the gap to reach the appeal premises. However, in my opinion, casual parking alongside a kerbside barrier, so close to the traffic lights would be very unlikely to take place. In my judgement, therefore, the Council has not shown that it had reasonable planning grounds for its refusal of permission on highway safety grounds and has subsequently failed to provide sufficiently compelling evidence to substantiate its first reason for refusal. I conclude, therefore, that the Council acted unreasonably and caused the appellant unnecessary expense

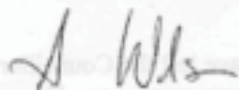
11. Turning to the second reason for refusal, I do not consider that the information the Council Members had in front of them concerning the effect of food and drink uses on the amenities of the residents was in any way disingenuous or unsubstantiated. The residents living near to the appeal site, in the housing areas close to York Road, conveyed their genuine concern over the effects which they were already experiencing and how this would be affected by an additional food and drink use in their locality. It is also clear from the representations made by other organisations that late night noise and disturbance, together with more serious anti-social behaviour, is a major local issue.
12. The Committee report and the officers' recommendation would have left the Councillors in no doubt that the proposals were considered to be an acceptable town centre use. However, when an assessment of the likely environmental effects of the proposals on an existing situation are so finely balanced, I do not consider that the Council acted unreasonably in attaching greater weight to the harm that would be caused to the amenities of the local residents. Indeed, the policies of both the current and emerging development plan require that the impact of such uses on the living conditions of local residents be considered in the determination of applications for these uses.
13. I consider that the case presented at the hearing in defence of the Council's second reason for refusal was sufficiently robust and well argued, and was also supported by the evidence given by a local resident. I conclude, therefore, that the Council has not acted unreasonably.
14. I am also guided by the advice from paragraph 8 of Circular 8/93 which records that in cases where planning issues are clearly shown to be finely balanced, an award of costs relating to substantive, as distinct from procedural, matters is unlikely to be made against the planning authority.

Conclusion

15. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has been demonstrated. I therefore conclude that an award of partial costs is justified.

Formal Decision and Costs Order

16. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Hartlepool Borough Council will pay to Mr K Johnson, the costs of the appeal proceedings limited to those costs incurred in the preparation of those parts of the applicant's statement of case relating to the first reason for refusal concerning highway safety matters. Such costs are to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under section 78 of the Town and Country Planning Act 1990 as amended against the refusal of planning permission for 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 at 86/88 York Road, Hartlepool, TS26 8AB.
17. The applicant is now invited to submit to Hartlepool Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.



INSPECTOR

Report of: Assistant Director, Planning & Economic Development

Subject: APPEAL BY KINGFIELD DEVELOPMENTS, SITE AT
FORMER TOTAL SERVICE STATION, POWLETT
ROAD, HARTLEPOOL

1. PURPOSE OF REPORT

1.1 To advise members of this planning appeal.

2 INFORMATION

2.1 A planning appeal had been lodged against the refusal of the Local Planning Authority to allow the erection of 16 flats in a 3 storey and 2 storey block and associated car parking.

2.2 The appeal is to be decided by written representations and authority is therefore requested to contest the appeal.

3. RECOMMENDATION

3.1 Authority be given to officers to contest this appeal.

Report of: Assistant Director (Planning & Economic Development)

Subject: LAND AT WOODBURN LODGE, BLAKELOCK GARDENS, HARTLEPOOL
PLANNING APPEAL DECISION

1. BACKGROUND

- 1.1 Notice has been received that a planning inspector has allowed an appeal in relation to a lawful development certificate at Woodburn Lodge. The appellant had challenged a decision by the Local Planning Authority to refuse a certificate in relation to a proposed detached garage at the rear of the property. The effect of this decision is that the proposed garage benefits from permitted development rights for which planning permission would not be required.
- 1.2 The purpose of this report is to enable Members to consider the decision including whether they would wish to lodge an appeal against that decision to the High Court.
- 1.3 A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful it would have to be shown that the Inspector misinterpreted the law or that the site visit or other appeal procedures were not carried out properly leading to unfair treatment.
- 1.4 Members should be aware that the legal costs involved in preparing and presenting a case could be considerable and if the challenge fails significant legal costs may fall on the Council.

2 CONCLUSION

- 2.1 Having reviewed the decision it is your officer's opinion that there is no suggestion in this case that the Inspector has misinterpreted the law.

3 RECOMMENDATION

- 3.1 That Members note and accept the appeal decision.



Appeal Decision

Inquiry held and site visit made on 13 September 2005

by **David C Pinner** BSc DipTP MRTPI

an Inspector appointed by the First Secretary of State

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Date

12 OCT 2005

Appeal Ref: APP/H0724/X/05/2002074

Woodburn Lodge, Blakelock Gardens, Hartlepool, TS25 5QW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is made by M T Walker against Hartlepool Borough Council.
- The application (Ref: H/LAW/0080/05) is dated 31 January 2005.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The proposed development for which a certificate of lawful use or development is sought is a double garage.

Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.

Procedural Matters

1. In a LDC appeal, consideration can only be given to matters of law, not consequence. Representations received in response to the Council's letter of notification of the appeal all relate to the planning merits (hence consequences) of the proposal and do not address the matter in hand. The Council's concern that a finding that the proposed double garage would be lawful would deprive residents of a chance to air their views on the proposal is similarly not a matter that can influence my decision.
2. I have determined the appeal on the basis of the proposal as described. The plans show the proposed garage as having doors at both ends. My decision would have no bearing on any proposal to construct a similar building, the primary purpose of which was to create a covered means of access between land within the curtilage of Woodburn Lodge and the private drive leading from Redcar Close.

Background to the appeal

3. The construction of the proposed double garage would involve development within the meaning of s55(1) of the Act and hence planning permission is required by virtue of s57(1) of the Act. S58(1)(a) provides that planning permission may be granted by means of a development order.
4. The appellant's case is that planning permission for the proposed garage is granted by virtue of Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (GPD0). This permits: "The provision within the curtilage of a dwellinghouse of any building.....required for a purpose incidental to the enjoyment of the dwelling house as such....." There are various limitations on size, position and height of

Appeal Decision APP/H0724/X/05/2002074

such a building, but it is common ground between the parties that the proposed garage would be within the curtilage of the dwelling house and would not fall outside the scope of the permission because of its height, size or position.

5. The Council would have refused to grant an LDC for two reasons. Firstly, they say that a garage needs a vehicular access and hence the provision of an access to the proposed garage has to be considered an inseparable element of the proposal. They say that the provision of an access does not fall within any class of development permitted by the GPDO. Secondly, they say that there is no reasonable requirement for the proposed double garage because of the scale of existing accommodation which has been provided for incidental purposes, including existing and potential garaging.

Reasons

Access

6. There is a long-standing issue regarding access to the rear garden of the appeal property from Redcar Close. The Council has previously enforced against the formation of an access which linked the back garden with a private driveway which then linked with Redcar Close. The enforcement notice was upheld on appeal. The Council's view is that circumstances have not changed since that appeal decision was made, hence, in planning terms, there is no lawful access to the rear garden of the appeal property which the proposed garage could use. The appellant says that he owns the private driveway beyond the boundary of the curtilage of Woodburn Lodge and has an unrestricted right of access over it. That is as may be, but has no bearing on the planning position which is concerned only with the development of land, not the establishment or existence of rights over it.
7. There are significant differences between what is now proposed and what was previously enforced against. In the earlier case, the works that had been carried out involved the demolition of a boundary fence, the laying of a hardcore surface and the erection of gates and pillars. Whilst as individual operations, each might have been permitted by various parts of the GPDO, it is not correct to split an operational development into its constituent parts – one has to look at the whole. In that case, the whole development could only be described as the construction of a means of access. Only Class B of Part 2 of Schedule 2 of the GPDO grants planning permission for the construction of a means of access, and that is limited to a means of access to a highway that is not a trunk road or classified road. The means of access that had been constructed was to a private driveway, not a highway, and the previous Inspector found that it therefore did not benefit from any GPDO permission.
8. At present, there is no boundary fence separating the garden of the appeal property from the private driveway. Allowing for the possibility that there was a fence there at the time of the LDC application, the operational development that the scheme would involve comprises the removal of a section of that fence and the construction of the garage. The garage would be accessible from the private driveway by virtue of the fact that its door would open directly onto it. The "provision" or "formalisation" (both terms used by the Council at the inquiry) of a means of access must involve development as defined in s55 of the Act before the need for planning permission arises. In this case, no such development would be involved. Taken as a whole, the proposed development could only be described as the construction of a garage, as opposed to the construction of a garage and the construction of a means of access to it. The proposed development would be entirely within the curtilage of the

Appeal Decision APP/H0724/X/05/2002074

dwelling house and I conclude that it is therefore capable of benefiting from the permission granted by Class E of Part 1 of Schedule 2 of the GPDO. If the section of fence had already been removed at the time of the application, my conclusion would be unaffected.

Required for a purpose incidental to the enjoyment of the dwelling house as such

9. There are two aspects to this consideration. Firstly, is the intended purpose of the proposed garage incidental to the enjoyment of the dwelling as such? Secondly, if it is, is the garage required for that purpose?
10. Underlying both aspects is a test of objective reasonableness. Incidental residential uses would include a wide variety of hobby, recreation and leisure activities but not necessarily those which a reasonable person might consider to be bizarre, obsessive or carried out to excess. It is a matter of judgement on the facts of the particular case.
11. In this particular case, the appellant has four classic cars. Three are kept at the appeal address and the fourth is stored off-site. He has owned the cars for many years, the most recent acquisition being 15 years ago. Of the three I saw, one is being restored. There is a double garage attached to the house where two of the cars are kept and a detached storage building houses the third. The appellant's day-to-day car is parked in the open on the forecourt to the front of the dwelling. The proposed garage is required for the fourth classic car and to provide garaging facilities for a day-to-day car for the appellant's wife.
12. The appellant's cars are all domestic vehicles and there is nothing unusual about any of them being kept in a residential environment. Collecting and restoring cars is not an unusual hobby. There is obviously a point where the number of cars collected and restored goes beyond what could reasonably be described as incidental to the primary residential use. The determination of that number is a matter of fact and degree and will vary according to the particular circumstances. In this case, the dwelling is a large family home with five bedrooms. It would not be out of the ordinary if there were a family of five or six people living in such a house, each of whom might have a car of their own. Even a smaller family might have several cars, to suit different purposes. The number of cars that the appellant wishes to keep at his home is not excessive compared with the number that might reasonably be expected to be kept there under other domestic circumstances where none of the occupants keeps cars as a hobby. I therefore find, as a matter of fact and degree, that the appellant's intention to keep four classic cars at the property would not be unreasonable and would be incidental to the enjoyment of the dwelling house as such.
13. The second aspect of this consideration is whether the facilities proposed are reasonably required for the stated purpose. The Council referred to various other cases where it had been found that the proposed development was not required and therefore could not benefit from the GPDO permission. Such references are of limited assistance because the circumstances of each case are likely to be unique. However, the decisions demonstrate basic principles that are applicable to this case; firstly that the scale of the proposed development should be reasonably related to its purpose and secondly, that the development should genuinely be required, having regard to existing facilities.
14. On the first of those principles, the proposed garage is of a scale which is typical for a double garage and I take no issue with it on that score. The second consideration is relevant because the appellant is in the course of constructing a very large building in the back garden of the appeal property. This building is the subject of a LDC granted by the

Appeal Decision APP/H0724/X/05/2002074

Council. The Council concluded that the building is permitted by Class E of Part 2 of Schedule 2 to the GPDO and the LDC describes its purposes as being for the accommodation of a swimming pool, sauna and changing area, recreational area, workshop and occasional vehicle storage.

15. The building has yet to be completed and brought into use. I accept the Council's point that part of the basement of the building could be used to store several cars, but that is not what the appellant intends and it is not the basis on which the LDC was granted. The workshop area of the building has openings big enough for garage doors, but the building has no independent vehicular access. From what I saw, the only way of getting a car into it would be to bring it through the double garage attached to the house. This has doors at the front and back, so a vehicle could be driven through it and then into the new building at the rear. This would not be a convenient arrangement if the new building were to be used as a garage on a daily basis, since it would effectively sterilise the use of half of the existing double garage, which would have to be kept clear of obstruction. However, it would make it ideal for use as a long term garage/workshop for a car undergoing restoration. I accept that a garage/workshop being used in that way would not be an ideal place to keep other vehicles because of the risk of them being damaged.
16. Allowing for the possibility of the new building being used in part as a garage/workshop, the facilities that would be available if the proposed garage were to be constructed would be just adequate for the appellant's existing vehicles plus an additional day-to-day car for his wife to use. It follows, therefore, that the appellant's desire to provide adequate garaging facilities for his vehicles necessitates the construction of the proposed double garage. In that respect, I am satisfied that it is required for a purpose incidental to the enjoyment of the dwelling house as such and would be permitted by the GPDO permission relied upon by the appellant.

Conclusions

17. For the reasons given above and having regard to all other matters raised, I conclude, on the evidence now available, that the Council's deemed refusal to grant a certificate of lawful use or development in respect of the proposed double garage was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

18. I allow the appeal, and I attach to this decision a certificate of lawful use or development describing the proposed operation which I consider to be lawful.



INSPECTOR

Report of: Assistant Director (Planning & Economic Development)

Subject: CHANGES TO THE DEVELOPMENT CONTROL SYSTEM

1. PURPOSE OF REPORT

1.1 To advise Members of recent changes to the development control system.

2. INFORMATION

2.1 On 24 August new development control provisions came into effect. They

- 1 increase the powers of Local Planning Authorities to decline to determine repeat applications;
- 2 reduce the life of a planning permission from 5 years to 3 years;
- 3 requires statutory consultees to respond to consultations within 21 days;
- 4 provides for regional planning bodies to be statutory consultees on certain planning applications.

2.2 A copy of the circular is attached with this report.

3 RECOMMENDTION

3.1 Members note the new provisions.

OFFICE OF THE DEPUTY PRIME MINISTER

ODPM Circular 08/2005
Office of the Deputy Prime Minister
Eland House, Bressenden Place, London SW1E 5DU

24 August 2005

GUIDANCE ON CHANGES TO THE DEVELOPMENT CONTROL SYSTEM

1. This Circular provides guidance on the operation of the development control provisions commenced on 24 August 2005. These provisions are contained in Part 4 of the Planning and Compulsory Purchase Act 2004. The Circular covers:
 - the power to decline to determine applications
 - the duration of permission and consents
 - the duty to respond to consultation
 - Regional Planning Bodies as statutory consultees.
2. The guidance contained in this Circular relates to England only. A further Circular will be issued when the measures are commenced in relation to Wales. References in this Circular to the "2004 Act" are to the Planning and Compulsory Purchase Act 2004. References to the "1990 Act" are to the Town and Country Planning Act 1990. References to the "Listed Buildings Act" are to the Planning (Listed Buildings and Conservation Areas) Act 1990. References to the GDPO are to the Town and Country Planning (General Development Procedure) Order 1995.

Power to decline to determine applications

3. Section 43 of the 2004 Act replaces the existing section 70A of the 1990 Act with new sections 70A and 70B. It also inserts new sections 81A and 81B into the Listed Buildings Act.

PURPOSE OF POWERS

4. These new powers are intended to inhibit the use of repeated applications that are submitted with the intention of, over time, reducing opposition to undesirable developments. They are not intended to prevent the submission of a similar application which has been altered in order to address objections to the previous application. Applicants should be encouraged to enter into pre-application discussions to minimise the likelihood of their applications being rejected.

REPEAT APPLICATIONS

5. Powers previously existed for local planning authorities to decline to determine an application for planning permission which was the same or substantially the same as an application that, within the previous two years, the Secretary of State had called in and refused or had dismissed on appeal.
6. This new power extends the ability to decline to determine applications to include applications for listed building consent, conservation area consent and applications for the prior approval of a local planning authority for development which is permitted under the Town and Country Planning (General Permitted Development) Order 1995.
7. In addition, local planning authorities will also be able to decline to determine applications where there has been no appeal to the Secretary of State on at least two previous refusals in the last two years.
8. Local planning authorities should use the power to decline to determine repeat applications only where they believe that the applicant is trying to wear down opposition by submitting repeated applications. If an application has been revised in a genuine attempt to take account of objections to an earlier proposal, the local planning authority should determine it.
9. If an applicant thinks that an authority has acted unreasonably in declining to determine a repeat application, he or she is able to seek judicial review of that authority's decision.

"SIMILAR" APPLICATIONS

10. Section 70A(8) defines applications for planning permission as "similar" if (and only if) the local planning authority thinks that the development and the land to which the applications relate are the same or substantially the same.
11. Section 81A(7) of the Listed Buildings Act defines an application for listed building consent or conservation area consent as "similar" if (and only if) the

local planning authority thinks that the building and works to which the applications relate are the same or substantially the same.

12. Where an authority considers that an application is similar, it is not automatically obliged to decline to determine the application. However, local planning authorities should be mindful of the intention behind this power. It can be a major cause of frustration to members of the public and the local community to have to deal with a repeat application when they have already dealt with the original application and seen the development be refused.

"SIGNIFICANT CHANGE"

13. Local planning authorities should decide what constitutes a "significant change" in each case. An authority may consider that a change in a Development Plan Document or other material consideration will be "significant" for the purpose of this section if it is likely to alter the weight given to any planning consideration in the determination of an application.

DOUBTFUL CASES

14. In considering whether to exercise its power under sections 70A or 81A, an authority will sometimes be faced with a doubtful case. In such a case, the authority should generally give the benefit of the doubt to the applicant and determine the application. No conclusion about the likely success of an application should be drawn from the decision by a local planning authority not to exercise its powers under sections 70A and 81A.

NOTIFYING AN APPLICANT

15. Where a local planning authority declines to determine an application, it should notify the applicant that it has exercised its power under section 70A or 81A to decline to determine the application and should return the application to the applicant. The authority should seek to make this decision as soon as possible so that, for example, further, unnecessary public consultation is avoided.

APPEAL

16. An application which a local planning authority declines to determine under section 70A or 81A should be returned to the applicant and should then be regarded by the authority as withdrawn. Applicants have no right of appeal against a local planning authority's decision not to determine an application except where the authority has failed to give notice of their decision not to determine an application (see section 78(2)(aa) of the 1990 Act). An applicant may, however, apply for judicial review of an authority's decision to exercise its power under these sections.

DATE OF IMPLEMENTATION

17. The existing provisions which enable an authority to decline to determine an application which has been refused or dismissed by the Secretary of State within the last two years are re-enacted by the new section 70A. An authority may

decline to determine an application which it has previously turned down within the last two years which is received on or after the date on which the new section 70A takes effect, even if the previous proposal was turned down by the authority before that date. The powers as extended do not apply to applications that were submitted prior to that day and which are determined after that date.

18. This guidance revokes that in paragraphs 4 to 9 of Annex 2 to the Department of the Environment Circular 14/91.

Duration of permission and consent

19. Section 51 of the 2004 Act amends section 91 of the 1990 Act and section 18 of the Listed Buildings Act so that detailed planning permission, listed building consent and conservation area consent will normally be granted with the condition that the development or works must be begun within three years from the date on which the permission or consent was granted. Local planning authorities may agree longer or shorter durations of permission or consent where they consider it would be appropriate, but the timescale should be appropriate to the size and nature of the development or works.
20. Section 51 also amends section 92 of the 1990 Act to require development which has been granted outline planning permission to be begun within two years from the date of final approval of reserved matters rather than 5 years from the granting of outline planning permission, since this might have allowed a longer duration of consent than would be provided under a full planning permission.
21. Section 51 also amends section 73 of the 1990 Act and section 19 of the Listed Buildings Act so that a planning permission or consent can no longer be extended by an application to vary a condition.

PURPOSE OF POWERS

22. These powers reduce the period of validity of a detailed planning permission, a listed building consent and a conservation area consent from five to three years. Local planning authorities may still direct longer or shorter periods where this would be appropriate, and it is recommended that they be flexible in their dealings with applicants, designating periods appropriate to the size and nature of the proposal. Furthermore, the powers remove the scope to begin development within five years of the grant of outline consent, since this might have allowed a longer duration of consent than would be provided under an application for full planning permission. These provisions also prevent an extension to the agreed period of validity without the submission of a new application.

DURATION OF CONSENT

23. When granting planning permission, listed building consent or conservation area consent, a local planning authority must grant that permission or consent subject to a condition imposing a time-limit within which the development must be started. When the local planning authority fails to impose such a condition, the permission or consent would be deemed to be granted subject to the condition

that the development or works to which it relates must be begun not later than the expiration of three years beginning with the grant of permission or consent.

OUTLINE PLANNING PERMISSION

24. Where a local planning authority is considering an application for outline planning permission under section 92 of the 1990 Act, it must grant outline planning permission subject to conditions imposing two types of time-limit. The first sets the time-limit within which applications must be made for the approval of reserved matters. This will normally be three years from the grant of outline permission, but an authority could choose to direct a longer or shorter period as appropriate. The second sets the time-limit within which the development itself must be started. This will usually be two years from the final approval of the last of the reserved matters, but may be longer or shorter as directed by the local planning authority. Whilst this route to permission may operate to the same timetable as currently, it provides local planning authorities with additional flexibility on timing, such as for relatively straightforward projects with few reserved matters.

VARIATION FROM STANDARD TIME-LIMITS FOR DETAILED APPLICATIONS

25. The three year default period has been introduced to encourage development to take place at an early stage and it is considered that for the majority of planning permissions and consents three years gives the developer long enough to begin implementation.
26. However, there will be developments where three years is unlikely to be long enough to enable the developer to complete all the preparation needed before starting work. Section 91(1)(b) enables local planning authorities to substitute a longer or shorter period once they have considered any material considerations. For each application, authorities should consider whether a three year period is appropriate to the size and nature of the development proposed and consider whether a longer or shorter period would be more reasonable. Local planning authorities should bear in mind that applicants will no longer be able to apply to extend the time-limit set in the consent.
27. Local planning authorities may wish to adopt a flexible approach to the fixing of time-limits where development is to be carried out in distinct parts or phases; section 92(5) of the 1990 Act provides that outline permissions may be granted subject to a series of time-limits, each relating to a separate part of the development. Such a condition must be imposed at the time outline planning permission is granted.

SEPARATE SUBMISSION OF DIFFERENT RESERVED MATTERS

28. Applications for approval under an outline permission may be made either for all reserved matters at once, or for one at one time and others at another. Even after details relating to a particular reserved matter have been approved, one or more fresh applications may be made for approval of alternative details in relation to the same reserved matter. Once the time-limit for applications for approval of

reserved matters has expired, however, no applications for such an approval can be made.

29. A condition requiring the developer to obtain approval of reserved matters within a stated period should not be used, since the timing of an approval is not within the developer's control. A condition, therefore, should set time-limits only on the submission of reserved matters.

EFFECT OF TIME-LIMIT

30. After the expiry of the time-limit for commencement of development it is not possible for development to be begun under that permission; a further application for planning permission must be made.
31. Previously, a developer who wished to extend the period of validity of a consent before the period had expired could do so by applying to vary a condition. Section 73(5) of the 1990 Act and section 19(5) of the Listed Buildings Act now prevent such an extension. Any person who has not started development within the time-limit allowed by the permission or consent will need to submit a fresh application if he or she wishes to undertake that development or works. Local planning authorities should judge such applications against current planning considerations.

DATE OF IMPLEMENTATION

32. An authority should determine an application which is received on or after 24 August 2005 in accordance with the new provisions. The new provisions do not apply to applications that were determined prior to that date or submitted prior to that date and which are determined after that date. However, where permission or consent was granted prior to 24 August 2005, developers will retain until 23 August 2006 the ability to seek to extend the time-limit on that permission or consent.
33. This guidance revokes that in paragraphs 54 to 60 of the Department for the Environment Circular 11/95.

Duty to respond to consultation

34. This guidance explains the new duty set out in section 54 of the 2004 Act requiring statutory consultees to respond to consultation within a set time period. New articles 11A and 11B of the GDPO specify to which consultation requirements the duty to respond will apply, the prescribed period for response, and the requirement on statutory consultees to provide a report to the Secretary of State on their performance.
35. Statutory consultees will be required to respond to consultation within 21 days under the provisions in section 54 and article 11A of the GDPO. The Secretary of State is also empowered to require statutory consultees to submit a report to him on their performance against the statutory deadline. Article 11B of the GDPO introduces the requirement to report annually.

PURPOSE OF POWERS

36. These powers are intended to assist with the speedier submission of the information necessary to enable a planning application to be determined.

TO WHOM DOES THE DUTY APPLY?

37. The duty to respond applies to anyone who is a statutory consultee by virtue of the following provisions:
- Articles 10 and 12 (including directions under article 10(3)) of the GDPO.
 - Paragraph 5(a) of condition A.3 in Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 (consultation in respect of prior approval applications for telecoms development).
 - Section 71(3) of the 1990 Act.
 - Paragraph 4(2) of Schedule 1 to the 1990 Act.
 - Paragraphs 7 of Schedule 1 to the 1990 Act.
 - Paragraph 3(b) of Schedule 4 to the Listed Buildings Act.
38. Where a duty to respond applies, it applies only to consultation under the above provisions, not to any other consultation with that statutory consultee, even if consultation is required by other statutory measures.
39. The reason for the different approach is that different consultation procedures apply. As a general rule, the duty to respond applies where local planning authorities were previously able to determine an application for permission or consent 14 days or more after the date on which they consult the statutory consultee.

PRE-APPLICATION CONSULTATION

40. The duty to respond also applies to anyone who is a statutory consultee by virtue of the above provisions where a request for advice relating to a potential development is made in advance of submitting a planning application. In such cases it can be equally important for developers and others to receive advice quickly. Local planning authorities will still be required to consult statutory consultees even if an applicant has already consulted them at pre-application stage.

DUTY TO RESPOND

41. Potential developers (at pre-application stage) and local planning authorities (at application stage) must provide sufficient information to the statutory consultee to enable it give a substantive reply. In considering what is "sufficient", potential developers, local planning authorities and statutory consultees should have

regard to the words of Webster J in *R v Secretary of State for Social Services ex parte Association of Metropolitan Authorities* (1986):

"... in any context the essence of consultation is the communication of a genuine invitation to give advice and a genuine consideration of that advice. In my view it must go without saying that to achieve consultation sufficient information must be supplied by the consulting party to the consulted party to enable it to tender helpful advice..... By helpful advice, in this context, I mean sufficiently informed and considered information or advice about aspects of the form or substance of the proposals, or their implications for the consulted party, being aspects material to the implementation of the proposal as to which the Secretary of State might not be fully informed or advised and as to which the party consulted might have relevant information or advice to offer."

42. Local planning authorities should send statutory consultees a copy of all relevant papers that they have received from an applicant to help the statutory consultee to provide a substantive response. Prospective developers are also advised to send to statutory consultees all the information they think that the statutory consultee might need to provide advice. The 21 day deadline will not start until the statutory consultee has received all the information it needs to provide an informed response. Where a statutory consultee needs to request further information, it should do so without delay.
43. A substantive response should:
 - say the statutory consultee has no comment to make; or
 - say that, on the basis of the information available to it, the statutory consultee is content with the proposed development; or
 - refer the local planning authority to current standing advice provided by that statutory consultee; or
 - provide advice.
44. The substantive response should include reasons for the consultee's views so that where these views have informed a subsequent decision made by a local planning authority the decision is transparent. A holding reply would not be a substantive response.

TIME-LIMITS

45. The period prescribed for the purpose of the duty to respond is 21 days starting with the date on which the statutory consultee receives the information necessary to allow it to provide a substantive response, or any other period agreed in writing between both parties. Where separate legislation sets a different time-limit for response, for instance consultation with English Nature under the Wildlife and Countryside Act 1981 or the Countryside and Rights of Way Act 2000, then that time-limit is not superseded by the 21 day deadline.

46. The statutory deadline will have been met if the statutory consultee gives its response within 21 days starting on the day on which the statutory consultee receives the consultation document. Statutory consultees are strongly advised to ensure that the advice is given by the fastest possible means. Good communication will be necessary between the local planning authority and the consultee where there is the possibility of confusion as to the deadline for a response; for example, if information was late in reaching the consultee.
47. Potential developers and local planning authorities should bear in mind that there may well be a need to extend the deadline in some cases. In such cases, potential developers and local planning authorities should consider favourably any request for an extension.
48. The amount of time needed for a statutory consultee to respond on a planning application is likely to be less if a potential developer has already sought the advice of the statutory consultee before submitting an application. Potential developers are therefore strongly advised to carry out such pre-application consultation - particularly where the development is likely to need detailed expert advice.

DETERMINATION OF APPLICATIONS BEFORE THE 21 DAY DEADLINE

49. The duty for statutory consultees to respond within 21 days and the general restriction that such applications should not be determined before a period of 21 days do not prevent the local planning authority from making an earlier determination where it has received a substantive response. Previously, decisions on applications could be made after 14 days. By changing this to 21 days, the two periods will be more closely aligned, providing greater consistency between the two requirements. In some circumstances the two periods may not align perfectly; therefore parties should seek to minimise this possible impact by having regard to the advice in paragraph 46 of this Circular. Additionally, the flexibility to make an earlier decision where all the relevant information is at hand is consistent with the objective of speeding up the planning process.

REPORTING REQUIREMENTS

50. Statutory consultees are required to report annually to the Secretary of State on their performance in meeting the statutory deadline. The report should consist of the following information:
 - the number of consultation requests received from prospective developers (that is, at pre-application stage);
 - the number of such consultation requests which were responded to within the statutory deadline;
 - the number of consultation requests received from local planning authorities;
 - the number of such consultation requests which were responded to within the statutory deadline; and

- (if appropriate) a brief summary of reasons why the statutory deadline has not been met in all cases.
51. Where the 21 day deadline has been extended by the agreement of both parties, it is the extended date against which performance should be recorded. The report does not need to identify where such longer periods have been agreed.
 52. The summary of reasons should not include details of every case, but should provide a general picture of why the target was not met. For example, one reason might be that insufficient information had been supplied to the statutory consultee, and therefore the statutory consultee had to go back for more information. In such cases, statutory consultees should give an indication of whether this is a widespread problem or whether the problem relates to individual prospective developers or local planning authorities.

SUBMISSION OF ANNUAL REPORTS

53. Reports should cover the year from April to March, and must be sent to the Secretary of State within three months of the end of the report year. For example, a report on performance from April 2005 to March 2006 would need to be submitted by the end of June 2006.
54. Where a consultation period falls over the end of year period, performance should be included in the report covering the period in which the response is provided. For example, a request received on 25 March 2006, and responded to on 10 April 2006, should be included in the report for April 2006 to March 2007.
55. Statutory consultees should send their reports, by the end of June each year, to the following address: Planning Development Control Division, Zone 4/H3, Eland House, Bressenden Place, London, SW1E 5DU, or by e-mail to consulteereports@odpm.gsi.gov.uk.
56. A summary of these reports may be published and, depending on trends identified in such reports, Ministers may request action be taken to address poor performance by statutory consultees.

Consultation with Regional Planning Bodies

57. This guidance explains the new consultation requirements set out in paragraph 16(4) of Schedule 6 to the 2004 Act which inserts a new paragraph 7 into Schedule 1 to the 1990 Act.

PURPOSE OF POWERS

58. To update the consultation arrangements on planning applications between local planning authorities and county councils to reflect the changes introduced by the 2004 Act. It also introduces provisions for regional planning bodies to be statutory consultees on certain planning applications. In both cases the period prescribed for responding to requests for advice is 21 days.

59. The regional planning body will be consulted on any development which would be of major importance for the implementation of the Regional Spatial Strategy or a relevant regional policy, because of its scale or nature or the location of the land. Further, each regional planning body may notify local planning authorities in writing of other descriptions of development in relation to which it wishes to be consulted. It is expected that these descriptive criteria will be linked to development likely to impinge on the implementation of the Regional Spatial Strategy or a relevant regional policy, but they may also cover other types of development. It is not expected that there will be significant numbers of planning applications on which the regional planning bodies will wish to be consulted.

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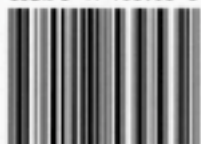
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Report of: Head of Planning and Economic Development

Subject: UPDATE ON CURRENT ENFORCEMENT
RELATED MATTERS

1. PURPOSE OF REPORT

- 1.1 During this four (4) week period, fifteen (15) planning applications have been registered as commencing and checked. Twelve (12) required site visits resulting in various planning conditions being discharged by letter.

2. BACKGROUND

- 2.1 Your attention is drawn to the following current ongoing issues:

1. A neighbour complaint about the erection of rear boundary fence topped with barbwire and exceeding 2m in height at a property in Marlowe Road is being investigated. The fence may require planning permission. Developments will be reported to a future meeting if necessary.
2. A neighbour complaint about the erection of an attached garage, side/ rear single storey brick/tiled store and rear conservatory at a property in Ventnor Avenue without the benefit of planning & building regulation consents is being investigated. Developments will be reported to a future meeting if necessary.
4. Officers from the Council's Environment Section have reported a garage in the grounds of a public house in West View Road is being used for spraying private cars. The matter is being investigated and developments will be reported to a future meeting if necessary.
5. A neighbour complaint about structures erected close to a farmer's hedge bordering a track in Elwick, is being investigated. It is alleged the structures are preventing him from maintaining the hedge and been alleged that there has been an enforcement notice served for their removal. Council records have been checked and there is no evidence of a notice being served. Developments will be reported to a future meeting if necessary.

6. A neighbour complaint is being investigated about the erection of a conservatory at Fernwood Avenue not benefiting from 'permitted development' rights. An informal enquiry was submitted and determined the conservatory did not exceed 70 cubic metres. It is alleged the conservatory as built is more than this. Developments will be reported to a future meeting if necessary.