

PLANNING COMMITTEE AGENDA



Friday 17 June 2011

at 10.00 am

in the Council Chamber, Civic Centre, Hartlepool

MEMBERS OF PLANNING COMMITTEE:

Councillors Barclay, Brash, Cook, Fenwick, James, Lawton, A Lilley, G Lilley, Morris, Richardson, Robinson, Shields, Simmons, Sirs, H Thompson, P Thompson, Wells 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 20 May 2011

4. ITEMS REQUIRING DECISION

4.1 Planning Applications – *Assistant Director (Regeneration and Planning)*

- 1 H/2011/0176 42 Bilsdale Road, Hartlepool
- 2 H/2011/0055 Joe's Skips, Brenda Road, Hartlepool

4.2 Update on Current Complaints – *Assistant Director (Regeneration and Planning)*

4.3 Seaton Carew Regeneration Update – *Assistant Director (Regeneration and Planning)*

4.4 Review of Planning Delegations – *Assistant Director (Regeneration and Planning)*

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

6. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006**

EXEMPT ITEMS

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

7 **ITEMS REQUIRING DECISION**

- 7.1 Complaint Files to be closed (para 6) – *Assistant Director (Regeneration and Planning)*
- 7.2 Enforcement Action – 77 Eamont Gardens, Hartlepool (paras 5 and 6) – *Assistant Director (Regeneration and Planning)*

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

9. **FOR INFORMATION**

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of the next Scheduled Meeting on Friday 15th July 2011.

PLANNING COMMITTEE

MINUTES

20 MAY 2011

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor Dr George Morris (In the Chair)

Councillors Jonathan Brash, Pamela Hargreaves, Marjorie James, Trisha Lawton, Geoff Lilley, Carl Richardson, Stephen Thomas, Hilary Thompson, Paul Thompson, Ray Wells and Edna Wright.

Also Present: Councillor Sarah Maness as substitute for Councillor Cranney in accordance with Council Procedure Rule 4.2.

Officers: Damien Wilson, Assistant Director, Regeneration and Planning
Chris Pipe, Planning Services Manager
Mike Blair, Highways, Traffic and Transportation Manager
Jim Ferguson, Senior Planning Officer
Adrian Hurst, Principal Environmental Health Officer
Tom Britcliffe, Principal Planning Officer
Jason Whitfield, Planning Officer
Kate Watchorn, Commercial Solicitor
David Cosgrove, Democratic Services Team

166. Apologies for Absence

Councillors S Akers-Belcher, Brash, Cook, Cranney and Sutheran.

167. Declarations of interest by members

None.

168. Confirmation of the minutes of the meeting held on 20 April 2011

Confirmed.

169. Planning Applications *(Director of Regeneration and Neighbourhoods)*

The Planning Services Manager submitted the following applications for the Committee's determination.

Number: H/2010/0589

Applicant: Mrs Ellen Gardner
54 Fernwood Avenue HARTLEPOOL

Agent: Mrs Ellen Gardner Haulfryn 54 Fernwood Avenue
HARTLEPOOL

Date received: 01/11/2010

Development: Erection of a two storey extension at the side to provide access to loft space with room to accommodate physio equipment, toilet and shower facilities

Location: 54 Fernwood Avenue HARTLEPOOL

Decision: **Planning Permission Approved with the wording of conditions delegated to the Planning Services Manager in consultation with the chair of the Planning Committee. The Planning Committee acknowledged the policy position, however, after considering all material planning considerations they concluded that on balance the exceptional personal circumstances of the applicant's family outweighed the policy concerns.**

The applicant, Mrs Gardner, was present at the meeting and responded to Members' questions.

Number: H/2011/0031

Applicant: Miss Louise Nicholson
Cecil M Yuill Ltd Cecil House Loyalty Road
Hartlepool

Agent: Cecil M Yuill Ltd Miss Louise Nicholson Cecil House
Loyalty Road Hartlepool

Date received: 21/01/2011

Development: Outline application for the erection of a residential nursing home

Location: LAND TO THE WEST OF EAGLESFIELD ROAD
HARTLEPOOL

Decision: **Outline Approval subject to the completion of a**

legal agreement to secure financial contribution of £50 per bedroom for green infrastructure and the following conditions and reasons:

1. Application for the approval of the reserved matters referred to below must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates: (a) the expiration of five years from the date of this permission; or (b) the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
To clarify the period for which the permission is valid.
2. Approval of the details of the layout (including parking), scale, external appearance and landscaping (herein after called the "reserved matters") shall be obtained in writing from the Local Planning Authority.
To clarify the period for which the permission is valid.
3. 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. Thereafter the development shall be carried out in accordance with the approved details.
In the interests of visual amenity.
4. The access hereby permitted shall be carried out in accordance with the layout plan received by the Local Planning Authority on 21/01/2011 (Drawing No. Nursing: Outline Planning: 01.B - Plan Dated:23rd September 2010) unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt.
5. The access hereby approved shall not be constructed until a scheme of compensatory planting and landscaping has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the scheme shall be carried out in accordance with the approved details and implemented within one month of the commencement of works of the access.
In the interests of visual amenity
6. The access hereby approved as shown on the layout plan received by the Local Planning Authority on 21/01/2011 (Drawing No. Nursing: Outline Planning: 01.B - Plan Dated:23rd September 2010) is only for the access and does not include any hardstanding areas for car parking and storage.
For the avoidance of doubt
7. Notwithstanding the approved plans a scheme for refuse and cycle storage, lighting and boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.
In the interests of visual amenity and to promote sustainable transport
8. The development hereby approved shall incorporate 'secured by design' principles. Details of proposed security measures shall be

submitted to and agreed in writing with the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details.

In the interests of crime prevention

9. The proposed building shall not exceed 2 storeys in height

In the interests of visual amenity

10. No development approved by this permission shall be commenced until a scheme for the provision of land drainage measures have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the approved details and a timetable agreed.

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

11. A scheme to incorporate energy efficiency measures and embedded renewable energy generation shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

To encourage sustainable development

12. No development shall take place until details indicating existing and proposed levels, including finished floor levels have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall conform with the approved details.

In the interests of visual amenity

13. Prior to the commencement of works on site a scheme detailing a wheel washing facility for use during the construction period shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the approved scheme shall be used during the construction period, unless otherwise agreed in writing with the Local Planning Authority.

In the interests of amenity

14. No development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. Once agreed the scheme shall be carried out in accordance with the approved scheme. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording;
2. The programme for post investigation assessment;
3. Provision to be made for analysis of the site investigation and recording;
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
5. Provision to be made for archive deposition of the analysis and records of the site investigation;
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

In the interests of preserving potential archaeological importance

15. No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 14.
In the interests of preserving potential archaeological importance
16. The development shall not be occupied until the site investigation and the post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 14 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
In the interests of preserving potential archaeological importance
17. The development shall not commence until there have been submitted to and approved in writing by the Local Planning Authority plans and details for ventilation filtration and fume extraction equipment to reduce cooking smells, and all approved items have been installed. Thereafter, the approved scheme shall be retained and used in accordance with the manufacturers instructions at all times whenever food is being cooked on the premises.
In the interests of the amenities of the occupants of neighbouring properties.
18. No development approved by this permission shall be commenced until a scheme for the provision of a foul drainage system shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be carried out in accordance with the approved details.
For the avoidance of doubt.
19. Unless otherwise agreed in writing by the Local Planning Authority the hereby permitted nursing home shall not be occupied until traffic calming measures on Eaglesfield Road have been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. Once implemented the traffic calming measures shall be retained for the lifetime of the development.
In the interests of highway safety.
20. The development hereby approved shall not commence until a scheme for the removal of hedges has been submitted to and approved in writing by the Local Planning Authority. The hedges should not be removed during the bird breeding season, taken to be March-July inclusive unless they are first checked by a qualified ecologist and it is confirmed in a report to the LPA by that ecologist that no breeding birds are present. Once provided the hedges shall be removed in accordance with the agreed scheme.
In the interests of protecting the habitat of breeding birds.

The Committee considered representations in relation to this matter.

The applicant's agent, Ms L Nicholson, was present at the meeting and addressed the Committee.

Number: H/2011/0014

Applicant: Cecil M Yuill Ltd
Miss Louise Nicholson Cecil House Loyalty Road
Hartlepool

Agent: Cecil M Yuill Ltd Miss Louise Nicholson Cecil House
Loyalty Road Hartlepool

Date received: 14/01/2011

Development: Residential development comprising 63 dwellings,
associated access, roads, sewers and landscaping
(Further amended site layout received - 21/04/2011)

Location: LAND TO THE WEST OF EAGLESFIELD ROAD
HARTLEPOOL

Decision: **Planning Permission Refused - The Planning Committee acknowledged the Officer recommendation, however, after considering all material planning considerations they concluded that the proposed development was unacceptable for the following reasons:**

REASONS FOR REFUSAL

1. It is considered by the Local Planning Authority that the proposed development by virtue of associated traffic would have a detrimental impact on the surrounding highway network, contrary to Policy GEP 1 of the adopted Hartlepool Local Plan 2006.
2. It is considered by the Local Planning Authority that the proposed development would encroach into the open countryside contrary to Policies GEP1 and Rur1 of the adopted Hartlepool Local Plan 2006.
3. It is considered by the Local Planning Authority that the proposed layout appears cramped and has insufficient areas of open space contrary to PPS1, PPS3, and policies GEP1 and Hsg9 in the adopted Hartlepool Local Plan 2006.

The Committee considered representations in relation to this matter.

The applicant's agent, Ms L Nicholson, was present at the meeting and addressed the Committee.

Number: H/2011/0176

Applicant: Mr T Horwood
c/o Agent

Agent: SL Planning Ltd Mr Stephen Litherland 12 Cragston
Close Hartlepool

Date received: 14/04/2011

Development: Erection of a detached single storey dwelling house
for use in conjunction with existing dwelling house

Location: 42 BILSDALE ROAD HARTLEPOOL

Decision: **Deferred to enable Members of the Planning
Committee to conduct a site visit**

Number: H/2011/0220

Applicant: BNP PARIBAS SECURITIES SERVICES TRUST
COMPANY (JERSEY) LIMIT C/O AGENT

Agent: Savills Commercial Limited Mr Timothy Price
Fountain Court 68 Fountain Street MANCHESTER

Date received: 15/04/2011

Development: External alterations to elevations and internal works
to create 3 new units and associated works to the
car park (resubmitted application)

Location: Units 1 and 2 Bum Road HARTLEPOOL

Decision: **Planning Permission minded to Approve subject
to the consideration by the Planning Services
Manager in consultation with the Chairman of
the Planning Committee of any further
representations arising during the outstanding
consultation period and the following conditions
and reasons:**

1. The development to which this permission relates shall be begun not
later than three years from the date of this permission.
To clarify the period for which the permission is valid.

2. The development shall be carried out in accordance with the plans (10973-100A Red Line Plan, 10973-101A Existing Site Plan, 10973-103A Existing Elevations, 10973-110D Proposed Site Plan, 10973-112C Proposed Elevations, 10973-112C- Coloured Elevations received at the Local Planning Authority on 15th April 2011, as modified by the conditions, unless otherwise agreed in writing with the Local Planning Authority.
For the avoidance of doubt.
3. Details of all external finishing materials, including hard surfacing areas within the curtilage of the building, 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 setting of the nearby listed building, and the character and appearance of the Conservation Area.
4. 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. Thereafter the development shall be carried out in accordance with the approved details.
In the interests of visual amenity.
5. 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, the setting of the nearby listed building and the character and appearance of the Conservation Area.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity, the setting of the nearby listed building and the character and appearance of the Conservation Area.
7. Before any of the development hereby approved is brought into use the approved car parking scheme, shown on drawing 10973-110D, as amended by condition 11 below, shall be provided in accordance with the approved details. Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.
In the interests of highway safety.
8. The units shall be subdivided into three retail units in accordance with the approved layout plan (10973-110D Proposed Site Plan), thereafter no further subdivision of the units shall take place unless otherwise agreed in writing with the Local Planning Authority except to allow for

internal divisions within any individual retail unit to allow for the creation of areas ancillary to the retail use of that unit such as storage areas, staff facilities, office space etc.

In the interests of the vitality and viability of the town centre.

9. Notwithstanding the provision of the Town & Country (Planning General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), the retail units hereby approved shall not be extended in any way, including through the provision of any mezzanine floor(s), without the prior written consent of the Local Planning Authority.

In the interests of the vitality and viability of the town centre.

10. The sale of goods from the three units hereby approved shall be restricted to:

- 1 Motor parts and accessories;
- 2 Furniture, beds, home furnishings, floor coverings and household textiles;
- 3 DIY products for the maintenance and improvement of the home and garden (including DIY - related electrical goods);
- 4 Domestic electrical and gas household appliances;
- 5 Photographic equipment;
- 6 Any goods ancillary to the above.

In the interests of the vitality and viability of the town centre.

11. Prior to the commencement of development a scheme for the provision of cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented prior to the development being brought into use and kept available for use for the lifetime of the development.

In order to encourage alternative modes of transport to the motor car.

12. Prior to the commencement of development a scheme for the provision of an additional disabled persons car parking space shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented prior to the development being brought into use and kept available for use for the lifetime of the development.

In order to ensure that adequate provision is made for disabled persons.

13. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced. Thereafter the development shall be carried out in accordance with the approved details.

In the interests of visual amenity.

Number: H/2010/0700

Applicant: Mr B Wilkinson
c/o 40 Relton Way HARTLEPOOL

Agent: The Design Gap Mr Graeme Pearson 1
Scarborough Street HARTLEPOOL

Date received: 15/12/2010

Development: Extension of the time limit for the implementation of planning permission H/2007/0758 for the change of use from garden centre to a recycling and waste transfer station with provision of sorting and storage bays

Location: Whitegates Garden Centre Mainsforth Terrace
HARTLEPOOL

Decision: **Planning Permission Refused**

REASONS FOR REFUSAL

1. It is considered that the proposed development would compromise the strategic aims for sub-regional waste planning set out in the Tees Valley Minerals and Waste DPDs as there is sufficient provision for waste management capacity within existing sites, and the proposal would be contrary to Policy MWP4 and MWC8 of the Tees Valley Minerals and Waste DPDs (2011) which identifies the Graythorp area as the strategic location for the provision of waste management facilities within Hartlepool.
2. It is considered that the proposal, by way of odour, noise, dust and visual intrusion, would have an unacceptable detrimental impact on the amenity and viability of neighbouring and surrounding properties when considered cumulatively within the context of Sandgate Industrial Estate, resulting in an unacceptable concentration of waste facilities in the locality, contrary to policy GEP1 and Ind6 of adopted Hartlepool Local Plan (2006) and policy MWP12 of the Tees Valley Minerals and Waste DPDs (2011).

The Committee considered representations in relation to this matter.

The applicant's agent was present at the meeting and addressed the Committee.

Number: H/2011/0015

Applicant: Mr I Bates
18 Malcolm Road HARTLEPOOL

Agent: Mr I Bates 18 Malcolm Road HARTLEPOOL

Date received: 13/01/2011

Development: Change of use from vehicle dismantling yard to storage of skips, plant, brick rubble, stone, clay, top soil and wood

Location: Unit 4 Sandgate Industrial Estate Mainsforth Terrace
HARTLEPOOL

Decision: **Planning Permission Refused**

REASONS FOR REFUSAL

1. It is considered that the proposed development would compromise the strategic aims for sub-regional waste planning set out in the Tees Valley Minerals and Waste DPDs as there is sufficient provision for waste management capacity within existing sites, and the proposal would be contrary to Policy MWP4 and MWC8 of the Tees Valley Minerals and Waste DPDs (2011) which identifies the Graythorp area as the strategic location for the provision of waste management facilities within Hartlepool.
- 2 It is considered that the proposal, by way of odour, noise, dust and visual intrusion, would have an unacceptable detrimental impact on the amenity and viability of neighbouring and surrounding properties when considered cumulatively within the context of Sandgate Industrial Estate, resulting in an unacceptable concentration of waste facilities in the locality, contrary to policy GEP1 and Ind6 of adopted Hartlepool Local Plan (2006) and policy MWP12 of the Tees Valley Minerals and Waste DPDs (2011).

The Committee considered representations in relation to this matter.

An objector to the application, Mr Bowes, was present at the meeting and addressed the Committee.

Number: H/2011/0055

Applicant: Mr Frederick Randall
17 Stanmore Grove HARTLEPOOL

Agent: England & Lyle, Morton House, Morton Road
DARLINGTON

Date received: 01/02/2011

Development: Change of use to a waste transfer station/recycling facility and associated works (resubmitted application)

Location: Joe's Skips Brenda Road HARTLEPOOL

Decision: **Deferred to enable Members of the Planning Committee to conduct a site visit**

The Committee considered representations in relation to this matter.

The applicant's agent was present at the meeting and addressed the Committee.

H/2010/0296

Applicant: MR E BAKER
POOL SKIP HIRE MAINSFORTH TERRACE
HARTLEPOOL

Agent: MR E BAKER 37 OAKLAND AVENUE
HARTLEPOOL

Date received: 09/06/2010

Development: Change of use to skip hire and skip storage site and alterations to garage (part retrospective)

Location: UNIT 3 SANDGATE INDUSTRIAL ESTATE
MAINSFORTH TERRACE HARTLEPOOL

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
 2. The development hereby permitted shall be carried out in accordance with the plans (290410) and details received by the Local Planning Authority at the time the application was made valid on 9th June 2010, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt.
 3. The site shall be used only for the storage of empty skips and the parking of two skip carrying vehicles. For the avoidance of doubt no waste, including materials for reuse/recycling, shall be brought onto the site at any time. Nor shall any waste, including materials for reuse/recycling, be stored or processed on the site.
In accordance with the application and because the site is not considered suitable for a waste operation.
 4. A maximum of two skip hire vehicles shall be parked at and operate from the site.
In accordance with the application and in the interests of highway safety.
 5. A maximum of 24 skips shall be stored on the site at any time in the locations indicated on the approved plan (290410). The skips shall be stacked a maximum of two skips high unless otherwise agreed in writing by the Local Planning Authority.
In accordance with the application and in the interests of visual amenity and highway safety.
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170. Update on Current Complaints *(Assistant Director Regeneration and Planning)*

Members' attention was drawn to seventeen current ongoing issues, which were being investigated. Any developments would be reported to a future meeting if necessary.

The Planning Services Manager informed Members that due to ill-health, the Enforcement Officer would be absent for the next three to four months.

Decision

That the report be noted.

171. Appeal by Mr Kelly The Laurels, Blakelock Road, Hartlepool *(Assistant Director (Regeneration and Planning))*

Members were informed that a planning appeal had been lodged against the refusal of Hartlepool Borough Council for the erection of a detached bungalow with integral garage at The Laurels Blakelock Road Hartlepool.

The appeal was decided by written representations and dismissed by the Planning Inspectorate. The Inspector concluded that the proposal would detract from the character and appearance of the area, by virtue of a cramped layout. A copy of the decision was submitted as an appendix to the report.

Decision

That the report be noted.

172. Local Government (Access to Information) (Variation Order) 2006

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

Minute 173 – Enforcement Action – 107 York Road, Hartlepool; namely Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. (para 5) and, Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment (para 6).

173. Enforcement Action – 107 York Road, Hartlepool *(Assistant Director (Regeneration and Planning))* (para's 5 and 6)

Members were asked to consider approving enforcement action, should this be required, in respect of the untidy condition of the 107 York Road, by way of issuing a Section 215 Notice.

Decision

The issuing of a Section 215 Notice was supported subject to conditions which are set out in the exempt section of the minutes.

174. Any Other Items which the Chairman Considers are Urgent

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

175. Various Issues

Members discussed three additional issues raised by the Planning services Manager and the Vice-Chair of the Committee.

Decision

That the issues be noted

The meeting concluded at 12.45 p.m.

CHAIR

No: 1
Number: H/2011/0176
Applicant: Mr T Horwood c/o Agent
Agent: SL Planning Ltd Mr Stephen Litherland 12 Cragston Close Hartlepool TS26 0ET
Date valid: 14/04/2011
Development: Erection of a detached single storey dwelling house for use in conjunction with existing dwelling house
Location: 42 BILSDALE ROAD HARTLEPOOL

1.1 The application was deferred from the May Planning Committee to allow Members to conduct a site visit. It is anticipated this will be carried out on the morning of the June Planning Committee.

The Application and Site

1.2 The application site is a semi-detached dwellinghouse with associated access and curtilage. It lies on the west side of Bilsdale Road. To the north and south are other residential properties and their associated gardens. To the west is a public right of way beyond which is a railway line and embankment.

1.3 The dwellinghouse (42) is located at the front (east) side of the site. To the rear is a relatively large parcel of land, largely laid to grass which was incorporated into the curtilage of number 42 under the provisions of a planning permission in 2005 (H/2005/5334). A paved access has subsequently been constructed under permitted development rights which connects this land to Bilsdale Road. The access passes between 42 and 40 Bilsdale Road and their associated rear gardens. Walls have also been constructed to enclose the sides of the gardens to the front and rear of number 42.

1.4 It is proposed to erect a detached single storey dwellinghouse on the land to the rear of the house. Access will be taken via the access described above. The dwellinghouse will accommodate three bedrooms (one en-suite) a kitchen/dining room, living room, bathroom, utility and pantry. Also indicated on the proposed site plan are an extended driveway/turning area and a garage, (these have not been constructed). The applicant indicates that the new dwellinghouse would be occupied by the applicant, his wife and their two children with the applicant's daughter and her family occupying the existing property (42 Bilsdale Road). It is understood that the applicant is willing to accept a planning condition or sign a section 106 agreement restricting the occupation of the new dwellinghouse.

Planning History

1.5 The site has a complicated planning history including a history of refusals and unsuccessful appeals for residential development.

1.6 In April 2004 planning permission for the demolition of 42 Bilsdale and the erection of 5 dwellings and associated garages and a private way was refused (H/FUL/0108/04). A subsequent appeal was dismissed in April 2005.

1.7 In June 2005 planning permission was approved for the incorporation of an area of land to the rear into the curtilage of 42 Bilsdale Road, subject to conditions (H/2005/5334). These conditions included a condition requiring the approval of means of boundary enclosure (2), a condition removing permitted development rights for outbuildings and hardstandings (3), a condition removing permitted development rights for the erection of fences, gates or other means of enclosure (4), and a condition removing rights to form a vehicular access onto Blackberry Lane (5). The applicant subsequently appealed against the imposition of conditions 3, 4 and 5 and the appeal was allowed. Consequently permitted development rights were not removed from the approved curtilage extension.

1.8 In September 2005 planning permission was granted for the erection of a garden shed in the north east corner of the site (H/2005/5613).

1.9 In November 2005 planning permission was refused for the erection of 4 dwellings with detached garages on the site (H/2005/5833). A subsequent appeal was dismissed in December 2006.

1.10 In February 2006 planning permission was refused for the erection of 2 dwellings with detached garages and a private driveway on the site (H/2005/5997). A subsequent appeal was dismissed in December 2006.

1.11 In March 2007 an application for the erection of a detached bungalow and detached double garage and a single detached garage including alterations to access was refused (H/2007/0006). A subsequent appeal was dismissed. The appeal decision is **attached**. The Inspector concluding that the proposal was an unacceptable form of tandem development which would have a significant adverse impact on the occupiers of no 42 Bilsdale Road in relation to noise and disturbance associated with the proposed drive by the applicant.

1.12 In May 2010 an application for a certificate of Lawfulness for a proposed development comprising erection of a detached double garage, associated driveway and front and rear walls was determined. On the basis of the information provided the council took the view that the developments were permitted development (H/2010/0038).

1.13 In August 2010 an application for the erection of a detached single storey dwelling for use in association with the existing dwellinghouse was received. (H/2010/0448). The application was identical to the application currently under consideration. A report with a recommendation of refusal was prepared to the October 2010 meeting of the Planning Committee but the application was withdrawn before it was considered.

Publicity

1.14 The application has been advertised by neighbour notification (12) and site notice.

Three letters of objection has been received. The writers raise the following issues:

1. garden grabbing;
2. wants a private estate on his land which street is not suited to;
3. why doesn't he build behind his house in Seaton Lane;
4. precedent, he will want more;
5. access is limited;
6. that the land has not as far as we are aware been designated for development through an urban capacity study;
7. would set a precedent for other home owners to develop similar building schemes;
8. we believe that the land is a designated green field plot;
9. it could also set a precedent for Mr Horwood allowing him to develop the site further as he has outlined in previous planning applications;
10. land was originally allotment land and it was never listed for land for development.

Three letters of no objection have been received one with comment from the applicant's daughter. The writer raised the following issues:

1. the applicant is trying to make something special out of a very large piece of garden
2. unfairly treated;
3. previous approval for two garages which are single storey the same as a bungalow that are in the process of getting built and these would need access for cars so I am wondering what the problem is? ;
4. victimised;
5. other buildings within the Hartlepool area have been approved and erected in urban estates for example a granny annexe in Brierton Lane, Elmwood Road and Netherby Gate.

The time period for representations has expired.

COPY LETTERS A

Consultations

1.15 The following consultation replies have been received:

Head of Public Protection - I cannot see any substantial difference regarding this application and the application made in 2007 which was dismissed on appeal. The single storey dwelling would appear for all intent and purpose as an independent dwelling. I am therefore of the opinion that this application should be resisted.

Traffic & Transportation – There are no highway or traffic concerns so long as the building remains part of No 42 Bilsdale Road.

Northumbrian Water – No objections.

Parks & Countryside - To the rear of 42 Bilsdale Road, there runs a Public Footpath, namely No. 4, Seaton Parish. The Public Footpath is for the use of pedestrians only. There are no public rights for the use of vehicles of any description. The Property of 42 Bilsdale does not have any vehicular rights attached to it, relating to the access to and from the above named public footpath. At no time can any equipment, vehicles or materials be transported to and/or from the named property, via this public footpath, be they private or commercial. At no time must the public footpath be obstructed by the placement of any equipment, vehicles or materials, be they private or commercial.

Planning Policy

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

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

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

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

Hsg11: States that extensions to provide accommodation for relatives will be approved where they are designed to enable incorporation into the existing dwelling when no longer required. Where extensions are not appropriate and a separate dwelling is provided within the curtilage, planning conditions will bind its occupation to that of the main dwelling.

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

Planning Considerations

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

POLICY

1.18 The site currently forms part of the curtilage of an existing dwellinghouse and is located within the limits to development. Recent changes in national guidance, aimed at controlling “ garden grabbing” , have reclassified residential curtilage as Greenfield and not Brownfield land. Notwithstanding this fact it may still be possible to build dwellings in rear gardens if the proposal complies with the principals set out in the policies of the Hartlepool Local Plan. Policy Hsg 9 advises that proposals for new residential development will be allowed provided amongst other things that the location of the new development is such that there are no significant detrimental effect on the occupiers of both the new and existing development. It advises that tandem development will not be allowed. Similarly Policy GEP1 advises that in determining planning applications regard should be had to the effect on the amenities of neighbouring properties. For the reasons discussed below it is considered that the development would have a significant detrimental effect on the occupiers of existing adjacent development. In policy terms therefore the proposal is considered to be unacceptable.

1.19 The applicant proposes that the new dwellinghouse will be occupied in association with the existing dwellinghouse by family members and has described the building as an annexe. Even if the dwellinghouse were considered an annexe, which given the nature of the accommodation it is not, it would fail to satisfy the requirements of the relevant Local Plan Policy (Hsg11) covering residential annexes. This policy advises firstly that such development must be of a satisfactory, scale, location and design in relation to the existing dwelling, its curtilage and surrounding dwellings, for the reasons discussed below it is not considered satisfactory. Secondly, it must be designed to serve an ancillary function to the main house and not be of a form that would encourage its occupation as a separate dwelling when no longer required (as an annexe). It is not considered that the dwellinghouse proposed is designed to serve an ancillary function it clearly has all the facilities one would expect from an independent dwellinghouse and is clearly capable of being occupied independently of the main house.

IMPACT ON THE AMENITY OF NEIGHBOURING PROPERTIES

1.20 Given the design and location of the dwellinghouse it is not considered that it would significantly affect the amenity of neighbours in terms of loss of light, privacy, outlook, or in terms of any overbearing effect.

1.21 However the access to the property will pass between the donor property (no 42 which is in the applicant's ownership) and the neighbours property (no 40) to the north. It will pass the gable of these properties and down the length of the side boundary of their rear gardens. In considering a recent appeal (attached to the Planning Committee Report) for a similar development on the site the Inspector, whilst taking the view that the buffer afforded by the garage of the neighbouring property (no 40) would protect the amenity of that property, was particularly concerned at the impact on number 42, the donor property. He advised “ I consider

the effect on No. 42 would be unacceptable. The significantly reduced width of this plot would bring vehicles close to the rear windows of the property and the remaining narrow garden area. Whilst acoustic fencing would reduce noise at ground level it would not be eliminated. It could break through or come over the fence, or be reflected from neighbouring structures. It would be unpredictable in timing and volume and could occur at unsocial hours.” Whilst having regard to the appeal decision (attached to the Planning Committee Report) it should be noted that Officers do not agree with the Inspector in terms of the effect on the neighbouring property (40). It is considered by Officers that whilst the garage identified by the Inspector does provide a degree of separation and therefore protection it is likely that the proposed development will have a detrimental affect on the amenity of the occupants of that property in terms of noise and disturbance from the comings and goings associated with the development.

1.22 The applicant recently received confirmation that the construction of a driveway and garage in the rear garden of the property (H/2010/0038) serving no 42, could be undertaken under permitted development rights without the necessity of first obtaining planning permission. It is acknowledged that the driveway (in part constructed) and garage (part of whose foundation has recently been excavated) if completed and in use would result in some movement, associated with the existing dwelling house, between the properties even if the current application were refused. However it is considered that this use would be likely to be far less intense than the additional use which would be associated with the new dwellinghouse. Given the length of the drive, the new dwellinghouse would be a considerable distance from the street making it much more likely that visitors, delivery services and the occupiers would use the drive. The applicant's supporting statement also indicates in any case that both the new and existing property would use the access and therefore its use would clearly intensify. “ Access to the site for both pedestrians and vehicles will be via a shared driveway to be used in association with the host dwelling and the new unit” . Notwithstanding the fact that the applicant has erected walls to the side gardens front and rear of number 42, it is considered that this will cause an unacceptable degree of disturbance to the occupiers of the neighbouring properties. The gates in the side of the rear gardens of the neighbouring properties onto the drive mean that those leaving the gardens could step out into the path of approaching vehicles whilst this would not happen frequently it would be a dangerous situation which reinforces the view that the development is unsatisfactory.

1.23 The applicant has offered that a legal agreement could be entered into to ensure the new property is retained in a single ownership and would only be occupied by directly related members of the same family. However, it is considered that there would be noise and disturbance issues which would have a detrimental impact on any resident's of the existing dwellinghouse related or not and the other neighbouring property. In any case given the fact that the two properties will be largely functionally independent the prospects of the properties remaining “ associated” , should circumstances change, must be questionable. It is considered that if the application were approved the Local Planning Authority would be accepting the principle of a residential property in this location, with all the activity and disturbance that would entail for the neighbours, and this would make it very difficult to resist any subsequent application to have any occupancy restriction tying its occupation to the donor property relaxed or removed.

1.24 In conclusion it is considered that the development would be an unacceptable form of tandem development which would have a significant adverse effect on the living conditions of the occupiers of the neighbouring properties in relation to noise and disturbance arising from the comings and goings to the site. As such it would be contrary to Policies GEP1 and Hsg 9 of the adopted Hartlepool Local Plan.

HIGHWAYS

1.25 The Traffic and Transportation section have raised no objection to the proposal provided it remains part of number 42 Bilsdale Road again for the reasons discussed above this might well prove difficult to enforce should the permission be allowed and the applicant's circumstances change once the property has been approved.

CONCLUSION

1.26 It is recommended that the application be refused.

RECOMMENDATION - REFUSE for the following reasons:

1. In the opinion of the Local Planning Authority the proposed development would be detrimental to the amenities of neighbouring residential properties by virtue of noise and disturbance associated with comings and goings to the site contrary to policies GEP1 and Hsg9 of the adopted Hartlepool Local Plan 2006.
2. In the opinion of the Local Planning Authority the proposed development would not be acceptable as a residential annex in that i) it would be detrimental to the amenities of the occupiers of neighbouring residential properties by virtue of noise and disturbance associated with comings and goings to the site, ii) it is not of a designed to serve an ancillary function to the main house and is of a form that would encourage its occupation as a separate dwelling when no longer required. The proposal would be contrary to policies GEP1 and Hsg11 of the Hartlepool Local Plan 2006.



Appeal Decision

Hearing held on 24 October 2007

Site visit made on 24 October 2007

by **Bern Hellier** BA(Hons) MRTPI

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

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

0117 372 6372
email: enquiries@pim.gov.uk

Decision date:
20 November 2007

Appeal Ref: APP/H0724/A/07/2039591

42 Bilsdale Road, Hartlepool, Cleveland, TS25 2AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr T Horwood against the decision of Hartlepool Borough Council.
- The application Ref H/2007/0006, dated 4 January 2007, was refused by notice dated 1 March 2007.
- The development proposed is the erection of a detached bungalow, double garage, single garage and new private drive.

Decision

1. I dismiss the appeal.

Application for costs

2. 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 issue

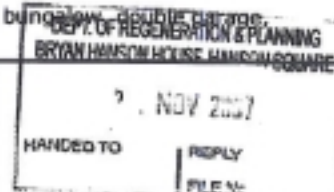
3. I consider the main issue is the effect of the proposal on the living conditions of the occupiers of 40 and 42 Bilsdale Road in relation to noise and disturbance associated with the proposed drive.

Reasons

4. The appeal site is a substantial area of garden land to the rear of a row of semi detached houses backing onto an unmade lane and railway line. The garage attached to the side of No 42 would be demolished and a shared drive would run alongside the boundary with No 40. A new garage and parking area for No 42 would be provided within the appeal site. The proposed bungalow would be a considerable distance from the street so that the drive would be used by the vehicles of visitors, delivery services and occupiers.
5. The lane to the rear of the site is little used. Apart from the occasional sound of trains on the adjacent railway the area of back gardens is quiet. The introduction of the noise of vehicles into this setting would be noticeable and uncharacteristic. The effect on No 40 would not be unreasonable since it would be mitigated by the noise buffer provided by its attached garage. However I consider the effect on No 42 would be unacceptable. The significantly reduced width of this plot would bring vehicles close to the rear windows of the property and the remaining narrow garden area. Whilst acoustic fencing would reduce

SCANNED

22 NOV 2007



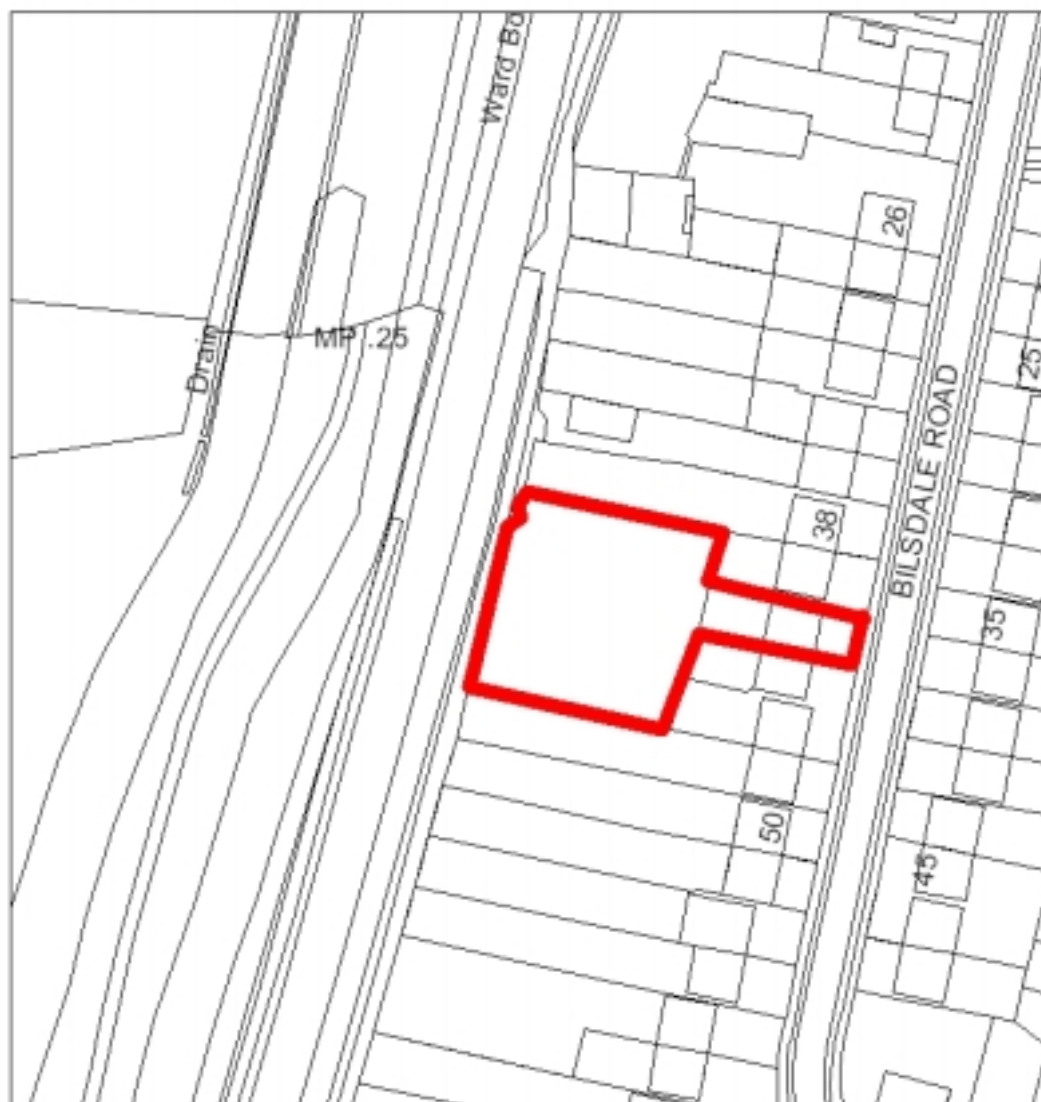
Appeal Decision APP/H0724/A/07/2039591

noise at ground level it would not be eliminated. It could break through or come over the fence, or be reflected from neighbouring structures. It would be unpredictable in timing and volume and could occur at unsocial hours.

6. Three previous appeals for residential development on the appeal site have been dismissed. One was for two dwellings and additional garaging with a shared drive similar to that now proposed (Ref APP/H0724/A/06/2010866). Whilst the decision in that case was finely balanced, it does not follow that a single dwelling would necessarily be acceptable. Indeed the Inspector implies that the proximity of the proposed drive to the reduced garden area of No 42 would result in an unsatisfactory layout.
7. I found no evidence of similar tandem development in the immediate neighbourhood. I visited examples elsewhere in Hartlepool. To the rear of 65 Seaton Lane a dwelling has been allowed on appeal served by a separate, parallel access. In Eldon Grove there is a short, narrow shared access, although I was unable to establish its impact on properties to the rear. Other developments have more space between frontage properties. None of these is directly comparable to the proposed development.
8. From measurements taken on site it was established that the appellant owns approximately 2.9 metres to the side of No 42. This would be the maximum width available for a drive and the actual width might well be less because of the need to take account of the change in level between the two existing properties and to protect the access rights of No 40. The drive narrows at a point where it would be hard up against the gable end of No 42. As a result those leaving the front or rear of the house could step out into the path of approaching vehicles. Whilst this would not happen frequently it would be a dangerous situation and reinforces my conclusion that the appeal should be dismissed.
9. I conclude that the proposal would be an undesirable form of tandem development which would have a significant adverse effect on the living conditions of the occupiers of 42 Bilsdale Road in relation to noise and disturbance associated with the proposed drive. As such it would be contrary to Policies GEP1 and Hsg9 of the adopted Hartlepool Local Plan.
10. I acknowledge that the proposal would make effective use of previously developed land within the development boundary of the town. It would also comply with required highway and building design standards. The Council's Public Protection Officer does not object, but his focus is on environmental health legislation. In this case I consider the noise and disturbance generated would be detrimental to residential amenity even though it might not amount to a statutory nuisance. I also note that, in the future, there is likely to be more traffic on the railway and therefore more associated noise. I have taken account of these and all other matters raised, including the previous appeal decisions, but they do not outweigh the harm the development would cause in relation to the main issue.

Bern Hellier

INSPECTOR

42 BILSDALE ROAD

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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 27/04/11
	SCALE 1:1000	
Regeneration and Neighbourhoods Bryan Hanson House Hanson Square Hartlepool TS24 7BT	DRG.NO H/2011/0176	REV

No: 2
Number: H/2011/0055
Applicant: Mr Frederick Randall 17 Stanmore Grove HARTLEPOOL
 TS25 1DP
Agent: England & Lyle Morton House Morton Road
 DARLINGTON DL1 4PT
Date valid: 01/02/2011
Development: Change of use to a waste transfer station/recycling facility
 and associated works (resubmitted application)
Location: Joe's Skips Brenda Road HARTLEPOOL

2.1 This application was considered at the May meeting of the Planning Committee where it was deferred for a site visit. It is anticipated that the site visit is to take place before the next committee on 17th June 2011.

2.2 The original report is reproduced below.

The Application and Site

2.3 The application site is located on the west side of Brenda Road just to the north of the main entrance to Corus (steelworks). Neighbouring uses are a mix of industrial uses including steelworks, haulage yards and engineering works. The nearest residential property is 'The Gatehouse' located on Brenda Road approx 54m north of the application site. The site is 360m west of residential properties in Seaton Carew and 330m south of Seaton Lane and Golden Flatts School.

2.4 Planning consent was granted by Stockton Rural District Council (on behalf of Durham County Council) in February 1964 for the use of the site as a 'scrap metal dealers yard'. This use has been carried out since then by the same family.

2.5 The current proposal involves the change of use of part of the site to a waste transfer/recycling facility. The applicant intends to import mixed waste onto the site in association with a skip hire business. The waste will be sorted by type, bulked up and dispatched from the site, either sold as a commodity or taken to a licensed waste disposal site.

2.6 The waste brought onto the site will consist of materials such as brick, concrete, hardcore, wood, metals, plastic, textiles, rubber, soils, paper, cardboard, cans, foil, paints, plasterboard and green waste. This will be limited to materials specified in the European Waste Catalogue and dictated by the relevant Environmental Permit, regulated by the Environment Agency.

2.7 The applicant has stated that no putrescible, household or commercial kitchen waste will be brought onto site. Any such waste would be separated and removed from site.

2.8 It is expected that a max of 200 tonnes of waste will be processed each week.

2.9 In terms of plant and machinery, the business has a 360 grapple grab for the sorting of waste, a 15 tonne loading shovel, and 18 tonne tipper wagon and skip wagons. The maximum vehicle movement is expected to be no more than 20 (10 in and 10 out) per day.

2.10 Hours of operation are 6am to 6pm Monday to Friday and 7am to 2pm Saturdays with no Sundays or Bank Holidays.

2.11 The plan submitted with the application indicates that just less than half of the existing site area would be used in connection with the business and the rest laid to grass. The operational area of the site will comprise a parking area, a compound for garaging, office and vehicle/plant storage and an area for hard standing. This hard standing area will include an area for skip storage, 4 walled storage bays and a holding tank for drainage. The site is accessed directly from Brenda Road.

2.12 An impermeable hard standing with a sealed drainage system, leading into a holding tank will be provided to deal with liquids arising from the waste together with any surface water runoff. The sub surface holding tank will be emptied by tanker as and when required.

2.13 The applicant has stated the existing lawful use as a scrap metal yard will cease if planning consent is granted for this waste transfer station.

2.14 It should also be noted that the use of the site as a waste transfer station/recycling facility has commenced without planning consent or the relevant EA permits.

Publicity

2.15 The application has been advertised by way of site notice, press notice and neighbour letters (4). To date, there has been no response.

The period for publicity has expired.

Consultations

2.16 The following consultation replies have been received:

Head of Public Protection – no objections subject to a number of conditions regarding dust suppression, wheel washing, no burning, all waste materials to be stored within properly drained impervious storage bays with height restriction. Must also condition wastes to be stored in accordance with EU waste catalogue

Traffic and Transport – no objections

Northumbrian Water – no objections

Environment Agency – originally objected on the grounds that there was insufficient information provided to demonstrate that the risk of pollution to controlled

waters is acceptable. This objection has now been withdrawn by the EA provided that the following condition is imposed :-

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with risk associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

- * All previous uses
- * Potential contaminants associated with those uses
- * A conceptual model of the site indicating sources, pathway and receptors
- * Potentially unacceptable risks arising from contamination at the site

2) A site investigation scheme based on (1) to provide detailed information for a detailed assessment of the risk to all receptors that may be affected including those off site

3) The results of the site investigation and detailed risk assessment referred to in (2) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require express consent of the Local Planning Authority. The scheme shall be implemented as approved.

With regard to general surface water drainage the EAs standard advice should be taken into account.

Reason:

The information provided with the planning application indicates that the site has been subject to potentially contaminative land use (ie scrap yard). The environmental setting of the site is sensitive as it lies on the Sherwood Sandstone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment. The submitted preliminary risk assessment suggests that there is likely to be a thick layer of clay within the development area protecting the Sherwood Sandstone. This needs to be validated using site specific information.

The EA has also advised that there are two types of waste transfer permit for this type of site. The standard permit does not allow activity to be carried out in the open air within 200m of a residential property or work place.

For a transfer station within a building, there is no requirement for a specified distance from a residential property or a work place. These permits do however allow specified wastes (soils, stones and glass) to be stored outside on a hard standing.

If unable to meet any of the conditions in the standard permits, a bespoke permit can be applied for. This will have conditions specific to the site, to address the areas of the abovementioned standard permit that has not been complied with. This will include an additional site specific risk assessment that identifies the problems and explains how that issue will be addressed.

The Sewerage Undertaker should be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows generated as a result of the development without causing pollution.

Traffic and Transport – no objections

Engineering Consultancy – has concerns regarding drainage. A condition is required which covers the disposal of storm water drainage as detailed designs are required before development. This may also impact on the consideration of controlled waters (contamination) if a soakaway solution is proposed.

Planning Policy

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

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

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

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

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

Ind5: States that business uses and warehousing will be permitted in this area. General industry will only be approved in certain circumstances. A particularly high

quality of design and landscaping will be required for development fronting the main approach roads and estate roads.

Ind6: Identifies part of the Sandgate area for the location of bad neighbour uses. Such uses will only be permitted subject to criteria in the policy relating to nuisance, visibility, screening, size of site and adequacy of car parking and servicing.

2.18 The Joint Tees Valley Minerals and Waste DPDs (development plan documents) are in their final drafts and have been submitted to the Secretary of State (11-11-2010). An Examination in Public was held in February 2011. The Inspector report is expected mid May. On adoption, these policies will form part of the development plan for the Borough and will specifically replace all the saved Mineral and Waste policies in the Hartlepool Local Plan 2006. At the time of the hearing, the Inspector requested no changes to be made to the documents.

These DPDs are therefore considered relevant to this application in particular policies:-

MWC6: Sets out the strategy for the sustainable management of waste arising in the Tees Valley through the provision of sufficient waste management capacity, promoting facilities and development that drive waste management up the waste hierarchy, distribute sites across the Tees Valley so they are related to source, market or related industry, safeguarding the necessary infrastructure, and development the regional and national role of the Tees Valley for the management of specialist waste streams.

MWC7: Identifies requirements for development waste management facilities to meet identified requirements for composting of MSW, recovery of MSW and C&I, recycling of C&D, and additional treatment and management of hazardous waste.

MWC8: Identifies general locations for waste management sites including land located around the Graythorp and Haverton Hill road areas. Small waste management sites will be provided throughout the plan area.

MWP12: States that proposals for small scale waste management operations involving sorting, recycling or recovery from municipal solid waste and commercial and industrial waste will be permitted where they are located on industrial land, well located in relation to the source or market, would create no unacceptable impacts on amenity or operational viability of land either in isolation or cumulatively, and would not lead to an unacceptable impact on the highway network.

Government policy and advice is found in the following Planning Policy Statements;

PPS 1 - General Principles

PPS 10 - Planning for Sustainable Waste Management

PPS 12 - Local Spatial Planning

PPS 23 - Planning and Pollution Control

PPS 25 - Development and Flood Risk

Regional Planning policies will also be considered in the determination of this application.

Planning Considerations

2.19 The main considerations in this case are the appropriateness of the proposal in terms of the policies and proposals within the relevant development plan policies, the Joint Tees Valley Minerals and Waste DPDs with particular regard to the principle of the development in policy terms, the impact of the development on the surrounding area, on the environment, nearby residential properties and on highway safety.

2.20 Also to be taken into account is current government guidance as provided in PPS10: Planning for Sustainable Waste Management and PPS23: Planning and Pollution Control.

Policy

2.21 PPS1: General Principles (2005), building upon Section 38 of the Planning and Compulsory Purchase Act (2004), states that ***'Local Planning Authorities must determine planning applications in accordance with the statutory development plan, unless material considerations indicated otherwise'***.

2.22 In this instance, the statutory development plan comprises the adopted Hartlepool Local Plan (2006) and the Regional Spatial Strategy for the North East (2007). Whilst the Government has indicated their intention to revoke Regional Strategies in forthcoming primary legislation, legal challenge to the Department of Communities and Local Government (DCLG) initial revocation is ongoing. The current advice from DCLG is that the Government's intended revocation should be regarded as a material consideration. Weight shall therefore be given to RSS where relevant.

2.23 Notwithstanding the above, paragraph 14 of PPS1: General Principles (2005) further states that ***'emerging policies in the form of draft policy statements and guidance, can be regarded as material considerations'*** and ***'where a DPD has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility they will be adopted'***. PPS12: Local Spatial Planning (2004) states that an Inspector's report made after examination of the plan will be binding.

2.24 The Hartlepool Local Plan (2006) contains the currently adopted waste policies for the Borough of Hartlepool. However, Hartlepool Borough Council, along with Tees Valley partner authorities have prepared the Joint Tees Valley Minerals and Waste DPDs, which upon adoption will supersede the waste policies within the Local Plan. The DPDs were submitted to the Secretary of State on the 11 November 2010, and the Examination in Public was held on the 8 and 9 February 2011. The Inspector's Report is expected mid May 2011. On that basis, it is considered that in light of the guidance set out above, significant weight will be given to those policies within the emerging DPDs.

2.25 The DPDs were developed with and underpinned by a detailed and thorough evidence base. Part of this evidence base was the consideration of the waste arisings across the Tees Valley for the expected plan period of 2011 – 2026. In the DPDs this need has been met by allocating waste management sites for various streams of waste across the Tees Valley. In short the DPDs allocate enough sites to meet this capacity.

2.26 Policy MW6 of the emerging Minerals and Waste DPDs (2011) states that the management of waste arising in the Tees Valley will be delivered by making sufficient capacity for recycling of household waste, recovery of Municipal Solid Waste (MSW) and Commercial and Industrial (C&I), promote facilities which drive waste management up the waste hierarchy, ensure distribution of the sites across the Tees Valley having regard to the proximity principle, safeguarding necessary infrastructure and development the role of the region in waste management terms. The key aspect of policy MW6 is that it makes provision for waste management capacity.

2.27 In terms of household waste, table 5.1, section 5.2 of the M&W DPDs Core Strategy (2011) indicates that there is sufficient capacity over the plan period for the recycling of household waste. Capacity is required for recovery of household and commercial and industrial waste, however. There is a policy requirement for capacity for 99,000 tonnes per annum (tpa), reducing to 47,000 tpa by 2015 before rising to 76,000 tpa in 2021 due to increase in waste creation and the limitation in landfill capacity.

2.28 Paragraph 5.2.12 identifies that 1,594,000 tonnes of construction and demolition waste will need to be dealt with every year by 2021, and 80% of that will need to be recycled by 2016 onwards. Table 5.3 identifies a shortfall in capacity for recovery of construction and demolition waste and therefore identifies a policy requirement for an additional capacity of 700,000 tonnes per annum.

2.29 Policy MWC7 identifies the need for facilities to deal with the identified capacity shortfalls including the composting and recovery of MSW/C&I and the recycling of at least 700,000 tpa of commercial and industrial waste from 2016 onwards.

2.30 In order to make provision for dealing with the capacity deficit, sufficient land must be allocated to ensure suitable and sustainable waste management facilities. Policy MWC8 identifies general locations for large waste management sites formed by clusters of facilities within identified locations. Policy MWP4 specifically identifies Graythorp Industrial Estate for facilities to manage and recycle 65,000 tpa over the plan period.

2.31 Small-sites are identified as having capacities no higher than 25,000 tpa and generally under 1ha in size. The DPDs indicate that facilities such as waste transfer stations or material recovery facilities could be located on either large or small scale waste management sites.

2.32 Policy MWP12 of the DPDs deals with small scale waste management operations. Proposals for small scale waste management facilities may include

sorting, recycling or recovery from MSW or C&I waste. Such facilities will only be allowed where they are:

- located on land allocated for industrial uses or where there is an existing industrial use;
- are well located in relation to the sources of waste to be managed or the markets for the materials being produced;
- would create no unacceptable impacts on the amenity or operational viability of neighbouring land uses either on their own or cumulatively, and;
- would not lead to an unacceptable impact on the local highway network from any traffic generated.

2.33 PPS10: Sustainable Waste Management, as well as relevant case law, indicates that management issues, such as annual tonnages, are matters for the control of Environment Agency through permitting. Any control of the LPA over tonnages would therefore result in unnecessary duplication of controls, contrary to PPS10. Therefore it is principally for the LPA's consideration on the appropriateness of the principle of a waste management facility use on this site be it deemed either a small or large site. Regard must therefore be had to the potential for a larger operation in terms of annual throughput than currently may be proposed or experienced on this site or adjacent sites.

2.34 Whilst it is acknowledged that the site has been in use as a scrap metal yard for many years it is located in an area allocated for general industry. Policy Ind5e states that proposals for business uses and warehousing (included within classes B1 and B8) will be permitted in this area. Proposals for general industrial development (included within class B2) and for other uses which are complementary to the dominant use of a development will be approved where the Borough Council is satisfied that they will not have a significant detrimental effect on the amenities of occupiers of adjoining or nearby properties or prejudice the development of adjacent sites. In this respect planning conditions may be imposed to restrict general industrial developments to appropriate operations within the B2 use class.

2.35 According to the adopted Local Plan 'Bad Neighbour' uses such as waste transfer/recycling sites should be located in the Sandgate Area where there are a number of existing uses similar to the use in question. Policy Ind6 states that this type of use will only be permitted where there will be no significant nuisance to adjacent premises or highway users by virtue of dust, smell, vibration, smoke, noise, mud or slurry. The site must not be visually prominent from a main access road or from the railway and that the site is adequately screened. The site must also be of a sufficient size for the operations proposed and there is adequate car parking and servicing for the site. The application site is not in or close to this area. Regardless of this the emerging policy position which is considered to be of significant weight is that allocations in the DPDs provide sufficient capacity for waste needs.

2.36 The site is also outside the area allocated for 'waste management' uses within the MWC8 (General Locations for Waste Management) of the emerging DPD (Development Plan Document). Although this site would be classed as a small site

within the above DPD, it is considered to be unacceptable for a waste management facility:

- (1) the future projected need for waste management facilities is met through allocations elsewhere across the Tees Valley (MWC6, MWC7 & MWC8).
- (2) there is no similar current use in this vicinity and there is concern by the potential effects of a waste management facility on the amenity or operational viability of neighbours. (Policies GEP1 & MWP12)

2.37 Insufficient evidence has been provided to justify this location for a new waste transfer facility and would therefore be contrary to the adopted Hartlepool Local Plan (Ind 6, and GEP 1). Future identified needs for waste management facilities are met through allocations elsewhere across the Tees Valley, this principle and evidence base have been considered at an Examination in Public as discussed earlier.

2.38 Planning Policy Statement 10 states that waste planning authorities should identify in development plan documents, sites and areas suitable for new or enhanced waste management facilities, but must take into account existing and proposed neighbouring land uses and the well being of the local community including any significant adverse impacts on environmental quality. Planning operates in the public interest to ensure that the location of proposed development is acceptable and health can be material to such decisions. Waste management facilities should be well designed so that they contribute positively to the character and quality of the area in which they are located.

2.39 Annexe E of the above PPS10 also states that in testing the suitability of sites and areas for this type of use, consideration will be given to the proximity of vulnerable surface and groundwater. The primary aim is to guard against new or increased hazards caused by development. The most important types of development in this respect include facilities intended for the handling, compaction, treatment and disposal of household and commercial wastes.

2.40 PPS23 advises that the planning system plays a key role in determining the location of development which may give rise to pollution. Any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to an impact on health, is capable of being a material planning consideration. Pollution issues should be taken into account as appropriate in planning decisions, having regard to development plan documents and all material considerations.

2.41 As previously mentioned, it is acknowledged that the application site is already within an industrial area, however it is not within the 'bad neighbour' area as allocated in the current local plan. Whilst the emerging DPD makes allowances for small sites, such as this, in general industrial areas, there is no evidence put forward that the proposed use would be 'well located' in relation to the source of waste. The proposed business would rely on importing waste in the form of skips which are for general hire.

2.42 The nature of the proposed facility would be significantly different from the existing use as a scrap metal yard. Stockpiles of materials such as soil, rubble and paper would be stored on site in the open air as no sheds or other buildings, other than open storage bays have been indicated within the application.

2.43 The site is within 54 m of the closest residential property and 360 metres of other residential properties and schools to the north and east and adjacent to manufacturing businesses which could be affected by processes carried out in this type facility.

2.44 In view of the above, having consideration for all policies and government guidance it is concluded that there is insufficient evidence that the proposed use is in accordance with the aims of sustainable development and the Governments overall objections for waste management. The use is contrary to policies GEP1 and Ind6 of the Hartlepool Local Plan and the emerging policies within the Joint Tees Valley Minerals and Waste DPD.

Impact on the surrounding area

2.45 Whilst the Head of Public Protection has not raised any serious concerns regarding the proposed use, a number of conditions have been recommended should approval be recommended. The site, which has been in use for many years subject to potentially contaminative use i.e. scrap yard, is located in a sensitive environmental setting on the Sherwood Sandstone, a principal aquifer. The existing site appears to have an earth floor without any significant hard standings, concrete bases or drains. Although no new or existing drainage has been shown on the submitted plans other than the proposed holding tank in the area of proposed hard standing, the application form states that foul sewage will be disposed of in the mains sewer and it is unknown whether there will be a connection to the existing drainage system. Surface water is to be disposed of in a soak away.

2.46 It should be noted that there are a number of open drains and ponds within a few metres of the site boundaries. Whilst these water features have no special status in ecological terms, it is likely that they support a certain amount of local wildlife and would be vulnerable to additional amounts of pollution particularly to a site without an appropriate drainage system. The Council's Drainage Engineer has concerns regarding the lack of drainage plans for the proposal particularly as the site is within 17m of fluvial flood zone 3 (drainage channels to the north and west of the site)

2.47 Although the site is reasonably well screened from the main road, additional fencing and landscaping could be provided by condition.

2.48 In terms of the effects of the proposal on human health the nearest residential property is a single dwelling on Brenda Road approx 54m to the north. There is a large primary school to the north and major residential areas in Seaton Carew, Seaton Lane and the newly built ' South Beach' development at Golden Flatts.

2.49 The potential for pollution to these residential properties and schools (and indeed to workers in nearby industrial sites) could be significant given the nature of the site, where most storage and processing will be carried out in the open air.

2.50 Whilst it is acknowledged that there are measures which can be undertaken to deal with pollutants such as noise, odour, dust, vibration, litter, vermin etc, in this

particular case it is considered that the risk is great given the proximity to residential properties. The current use as a scrap metal yard is unlikely to give rise to serious amounts of dust, litter or odours. Even though the applicant states that no putrescible waste will be purposely brought onto site, the very nature of skips being left at the roadside or on driveways would be likely to attract a certain amount of food waste/household waste. This can of course be isolated and removed but not altogether prevented. Furthermore the Local Planning Authority would have little control over the source of waste and commercial streams by nature have the potential for increased levels of putrescible.

Highway Safety

2.51 The site is located on Brenda Road and appears to have an adequate means of access. The Councils Highway Engineer has offered no objections on either parking or highway safety grounds.

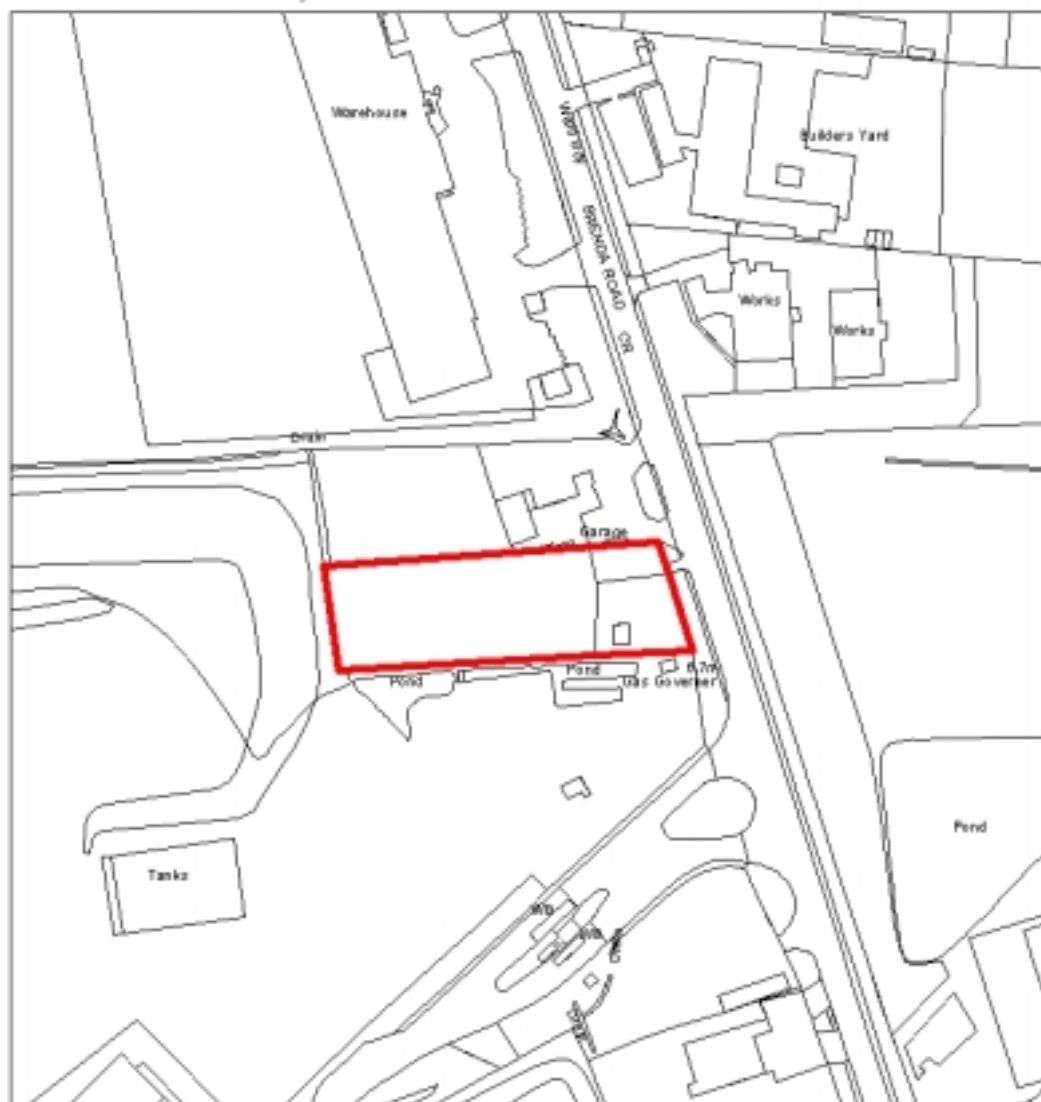
Conclusion

2.52 It is considered that whilst the provision of waste recycling facilities is to be encouraged it is equally important that such uses are located in appropriate locations and that the potential impact on adjoining occupiers, particularly on residential properties is given full consideration.

2.53 Having regard to relevant development plan and national planning policies, and the relevant material considerations discussed above, it is considered that the proposals are contrary to the strategic aims set out in the Tees Valley Minerals and Waste DPDs and would contribute towards an unacceptable cumulative impact on the neighbouring and visual amenity of the surrounding area.

RECOMMENDATION – Refuse for the following reasons:-

- 1 It is considered that the proposed waste transfer station/recycling facility is sited outside of the area allocated for ‘ Bad neighbour uses’) and would be detrimental to the amenities and living conditions of nearby residential properties contrary to policies GEP1 Ind5 and Ind6 of the adopted Hartlepool Local Plan 2006.
- 2 It is considered that the proposed development would compromise the strategic aims for sub-regional waste planning set out in the Tees Valley Minerals and Waste DPDs as there is sufficient provision for waste management capacity within existing sites, and the proposal would be contrary to Policy MWP4 and MWC8 of the Tees Valley Minerals and Waste DPDs (2011) which identifies the Graythorp area as the strategic location for the provision of waste management facilities within Hartlepool

JOE'S SKIPS, BRENDA ROAD

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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 27/04/11
	SCALE 1:2000	
Regeneration and Neighbourhoods Bryan Hanson House Hanson Square Hartlepool TS24 7BT	DRG.NO H/2011/0055	REV

PLANNING COMMITTEE

17 June 2011



Report of: Assistant Director (Regeneration and Planning)

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

1.1 Your attention is drawn to the following current ongoing issues, which are being investigated. Developments will be reported to a future meeting if necessary:

- 1 An anonymous complaint regarding the concreting of the front and side garden at a property on Grosvenor Street. The property is located within the Grange Conservation Area and is subject to an Article 4(2) Direction.
- 2 A complaint from a member of the public regarding razor wire which has been erected at an empty Public House on King Oswy Drive.
- 3 A neighbour complaint regarding the erection of decking in the rear garden of a property on Onxy Close.
- 4 A neighbour complaint regarding the construction of wooden structures or fence posts in the garden of a property on Tunstall Grove.
- 5 A police complaint regarding the encroachment of the outside seating areas onto the footpath at business premises on Navigation Point.
- 6 An officer complaint regarding an untidy building on Durham Street.
- 7 A complaint from a member of the public regarding the erection of razor wire at a business premises on King Oswy Drive.
- 8 A neighbour complaint regarding a large satellite dish which has been erected at a property on Courageous Close.
- 9 An officer complaint regarding the use of a business premises on Coniston Road as a waste recycling/transfer facility.

- 10 A neighbour complaint regarding the insertion of window in the side elevation of a property on Kingfisher Close.
- 11 A neighbour complaint regarding the erection of a close boarded boundary fence at a property on Castleton Road.
- 12 A neighbour complaint regarding the removal of a mature hedge, the erection of a 2m high fence and work not being carried out in accordance with the approved plans at a property on Relton Way.
- 13 A Fire Officer complaint regarding an untidy and unsecure derelict building on Grange Road.
- 14 A neighbour complaint regarding an untidy and unsafe residential property on Devon Street with open access.

2. RECOMMENDATION

- 2.1 Members note this report.

PLANNING COMMITTEE

17 June 2011



Report of: Assistance Director (Regeneration and Planning)

Subject: SEATON CAREW REGENERATION UPDATE

1. PURPOSE OF REPORT

- 1.1 To update members on the work being made to provide improvements and deliver the identified regeneration priorities in Seaton Carew.

2. BACKGROUND

- 2.1 Seaton Carew has an important role to play in Hartlepool's overall visitor offer. The promenade, beach and businesses in Seaton Carew are not only important amenities for Seaton Carew residents but for the rest of Hartlepool as well. Continuing to draw in investment and improving the attractiveness of Seaton Carew to both visitors and residents remains a key regeneration priority. Although regeneration funding has been secured for Seaton Carew in the past, the prospect of securing sufficient public funding to support the future regeneration of Seaton in the short to medium term, in the current financial climate will be more difficult. In order therefore to achieve the improvements that the Council and local residents have for Seaton Carew, alternative ways of delivering change needs to be explored and considered.
- 2.2 It is in recognition of the importance of Seaton Carew that various efforts have been made for a number of years to support, sustain and enhance Seaton Carew's popular assets. The Council has had success in attracting external regeneration funding to support investment in the public realm and business premises through grant schemes, as well as ensuring the upkeep and maintenance of the beach and lifeguard service.
- 2.3 Recent efforts to continue this investment in Seaton Carew have been less successful as the criteria associated with regeneration funding has become more restricted and funding less abundant generally. Other funding opportunities have also been explored including two unsuccessful bids submitted for Seachange funding. These bids were aimed at developing a comprehensive masterplan for the area and improving the physical environment.

- 2.4 In response to these failed funding bids, work has been done to develop a Masterplan for The Front at Seaton Carew. The plan covers the 'old fairground site' in the south, the Rocket House car park, the Longscar building and the remaining Council owned land up to the junction of Station Lane. The purpose of this plan is to bring together the regeneration aims of the Council in a concise way, which could be used to support any future funding bids. Extensive consultation exercises, carried out previously, have highlighted what the regeneration priorities are in Seaton Carew and these have been captured in this draft development plan for The Front. The intention is to include this document (including the other sites in Seaton Carew) as part of the Local Development Framework (LDF) where it will be used as a Supplementary Planning Document (SPD). This will mean that when the document has been fully consulted on and adopted, it will be used as part of the planning policy framework and used in the consideration of future planning applications.
- 2.5 In addition to these efforts focused at improving the area at The Front, officers have also been involved in considering the potential development of other Council owned sites and how they could be used to develop new or improved community facilities or deliver services in a different way. The community facilities in Seaton Carew including the sports hall and youth centre and library building are all in need of substantial investment and are subject to ongoing costly maintenance programmes.
- 2.6 A suggested scheme to develop the Elizabeth Way site and land at Coronation Drive/Warrior Drive for residential use and utilise the value generated to re-provide a new combined community facility in Seaton Carew was consulted on, and the results of which were reported to Cabinet in January 2010. Cabinet noted the responses to that consultation and agreed that any marketing of the sites should wait until the conditions in the property market improved.
- 2.7 Since this consultation exercise was carried out, the proposed reductions in government funding and subsequent reductions in local government expenditure has re-focused the question of future community service provision across the whole town. In response to the reduction in departmental budgets to provide community facilities, there is expected to be a reduced service provision across many areas. Currently proposals preclude any reduction in the library service in Seaton Carew but the provision of future community facilities in Seaton Carew may depend in part on the ability to provide sustainable alternatives through realising value through existing sites and assets.

3.0 CURRENT PROPOSALS

- 3.1 There are a number of key aims for the regeneration of The Front which have been established through consultation in Seaton Carew. The priority regeneration objective for this area is the removal of the Longscar Building. This unused property dominates the key central commercial area at The Front. It's current condition and the limited prospect of any development ideas

coming forward from the current owners, makes the need to redevelop this site a priority. Its current condition not only detracts from the visitor experience but affects the trading environment for other businesses in Seaton Carew. Any suggested regeneration plan for this area will need to address the use, scale and nature of this property through working with the owners to acquire the building or utilising the Councils planning powers to acquire and redevelop the site. If the latter approach is required a comprehensive plan for the area will be required, that is proven to be deliverable.

- 3.2 The successful regeneration of this area of Seaton Carew will also need to address the coastal defence issues highlighted by the Hartlepool Coastal Strategy Study. Draft defence schemes have been designed for individual stretches of the coastline between Newburn Bridge and Teesmouth. Funding has been recently secured for the stretch of frontage between the Staincliffe Hotel and the ramp at Station Lane. These works are being funded through the Environment Agency and are currently on site.
- 3.3 The sea defence between Station Lane and Seaton Dunes is subject to a project appraisal process during 2011, some Environment Agency funding is expected for this area to fund the required works. It is anticipated that contributions from the existing operators, other private sector operators, responsible for developing sites adjacent to the sea wall, and/or the Council may also be required to meet the remaining costs of these works.
- 3.4 Given the reduced availability of external regeneration funding, and the limited cash resources the Council currently has, officers have been looking at alternative ways to deliver the schemes. If these priorities in Seaton Carew are to be delivered either in part or whole, they need to demonstrate that they can be self funded.
- 3.5 In order to achieve the greatest level of return and delivery of a scheme that meets all the regeneration requirements and benefits that are required for Seaton then considering all of the sites (Coronation Drive/Warrior Drive , Elizabeth Way and the area at The Front) together has been considered prudent.

4. PROPOSALS

- 4.1 At this stage, officers have looked at the indicative costs of bringing forward the regeneration plans at The Front and enhancing the community facilities in Seaton Carew and estimated the likely value that some of the assets may have, in order to meet those costs.
- 4.2 Clearly if any part of the proposals for Seaton Carew can be delivered, the private sector will have an important role to play. Before any decisions are made regarding development or disposal of sites, Cabinet agreed to a process of market engagement to gauge the level of private sector interest.

- 4.3 At this stage the private sector have been asked for 'expressions of interest' in the sites. This falls short of asking for formal offers for the sites but developers have been asked to submit ideas regarding how they could deliver the benefits that have been identified in Seaton Carew, through utilising the sites and assets currently in Council ownership.
- 4.4 This process has identified interests from 8 developers 2 of which Cabinet have requested officers to explore further through interview and further submission of information.

5. RECOMMENDATIONS

- 5.1 Committee are requested to note the report

6. CONTACT OFFICER

Andy Golightly
Principal Regeneration Officer

PLANNING COMMITTEE

17 June 2011



Report of: Assistant Director (Regeneration and Planning)

Subject: Review of Planning Delegations

1. PURPOSE OF THE REPORT

- 1.2 To review the terms of the officer delegation scheme in relation to planning matters and to make suggestions for changes.

2. BACKGROUND

- 2.1 Earlier this year officers were instructed to bring a report to Planning Committee to enable Members to consider the issue of officer delegation. This reflected concerns highlighted by Members, in particular that they were authorising officers to contest appeals which they had not been party to the determination of.
- 2.2 National guidance cites delegation as the principal tool from which efficiencies can be made. Delegation is not a process that will generally change the outcome of a planning application, nor is it one which transfers power from elected Members to Officers. The purpose of delegation is to simplify procedures, speed up the process, minimise costs and leave committee members with more time to concentrate on major planning issues.
- 2.3 Successive governments have placed increasing emphasis on encouraging Councils to delegate more decision making to their trained and qualified officers, particularly in the case of straightforward or non-contentious cases. This allows the Planning Committee to concentrate on appraising the larger or more complex cases, and those which have potential significant public impact or wider affect.
- 2.4 Member determination of applications through Planning Committee is a key function at the heart of local democracy. It is essential that Members, as representatives of the local community, are responsible for determining planning applications which have significant implications for the communities they serve. This must also be balanced with the need to deliver an efficient, rapid, fair and consistent decision, both for residents and developers.

3. CURRENT DELEGATION SCHEME

- 3.1 It was previously agreed by Members that only the following be referred to Committee:-
1. Any matters which any Member requests should be referred to Committee for decision, such requests to be received in writing within 21 days of publication of details of the application. These requests must be for planning reasons and not because a Councillor has been lobbied.
 2. Any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial. For this purpose, controversial would be defined as being any application where more than two separate letters of ‘ planning’ objection, from the occupiers of different properties, have been received within the prescribed publicity period and the recommendation would be to approve the application. Approval of applications where there are up to two letters of objection should only be exercised after consultation with the Chair of the Planning Committee.
 3. Any applications submitted by the Council in respect of its own land except those relating to operational development where there is no lodged objection.
- 3.2 Members previously delegated refusal of applications with the agreement of the Chair of the Planning Committee.
- 3.3 The system was introduced for two main reasons:
- to stop applications in line with policy or established guidelines being referred unnecessarily to Committee
 - to meet the Government’s target at that time that 90% of applications be considered by officers under delegated powers, leaving Members to consider major and more contentious applications.
- 3.4 It is your officer’s view that the current delegated scheme has worked well since 2004. The percentage of delegated decisions has increased from about 80% in 2004 to over 93% currently. More fundamentally the Council is achieving all of its targets for dealing with the different categories of applications (the 13, 8 and 8 week targets for major, minor and other applications).
- 3.5 The table below compares the delegation scheme for the Tees Valley area:

	Middlesbrough	Stockton	Hartlepool	Redcar and Cleveland	Darlington	National
Decisions 2010	584	1,089	539	754	725	
Applications decided through Committee 2010	140	44	38	68	138	
Delegated Decisions % 2010	76%	96%	93%	91%	81%	91%

- 3.6 It is not uncommon for delegation rates to be high within local authorities. For example, 72 out of 367 (or 20% of all authorities nationally) have delegation rates of 95%, or above.
- 3.7 It is also considered that since the adoption of the current delegation scheme the Committee meetings have been more focussed and largely concerned with more significant applications since the new scheme was introduced.

4 FACTORS TO CONSIDER

Comparison of Planning Committee practice

- 4.1 A comparative analysis has been conducted by Middlesbrough Council in the form of an informal peer review of Development Control processes within the Tees Valley. The service managers from the four neighbouring authorities have each been interviewed to identify performance, best practice, details of schemes of delegation, triggers for Committee referral, application procedures and Planning Committee workloads.
- 4.2 Alongside the interviewing of neighbouring authorities, considerable desktop research has been gathered which incorporates data from the Department of Communities and Local Government (DCLG), national guidance on planning policy, the emerging localism bill and best practice cited from other Local Authorities.
- 4.3 A table of comparison of Planning Committee practice for the Tees Valley Local Authorities is attached at **Appendix A**.
- ‘Call-in’ by Councillors**
- 4.4 The current scheme of delegation allows for Members to request the ‘call in’ of any Planning Application to allow the Planning Committee to determine an application, this function of delegation is used on occasion by Councillors when it is considered there are wider implications which need to be considered by the Planning Committee. An example of an application which was ‘called in’ is that of 132 Station Lane, where it was proposed to demolish the Station Hotel and erect a supermarket (Ref: H/2010/0426), Officers recommended refusal which Members endorsed. A revised scheme was subsequently approved by Members at Committee.

- 4.5 Members as well as members of the public have access to the weekly list via the Hartlepool Borough Council website, the weekly list is a list of valid planning applications received that week.
<http://eforms.hartlepool.gov.uk:7777/portal/servlets/WeeklyListServlet>
- 4.6 Members also receive e-mails with the weekly list attached. A copy of a weekly list is attached at **Appendix B**.
- 4.7 Should Members have an interest in any application they can view the details of that application online or contact the named case officer or Planning Services Manager to ascertain the details of an application to determine whether they would like an application to be considered by the Planning Committee.
- 4.8 It should be noted that in requesting applications to be referred to Committee for decision Members should not refer items merely because they are lobbied by either the applicant or an interested party, planning reasons must be given in writing by the Councillor within 21 days of the publishing of the weekly list to ensure their request is complied with.
- 4.9 It is considered that this ‘ call in’ process works well, however new Councillors may not be fully aware of this process. It is proposed to circulate any revised delegation scheme to all Councillors to ensure that they are familiar with the system.
- 4.10 It was suggested at a previous meeting that officers could adopt a drop in day for Councillors in the Civic Centre to discuss any application. This did not appear to be endorsed by the Planning Committee and on reflection the Planning Services Team do have ‘ duty officers’ who are available to discuss any planning issue with members of the public, and as always Councillors can approach any officer to discuss any issue directly.

Objections Triggering Committee Consideration

- 4.11 Within each of the Tees Valley schemes of delegation assessed, there is a threshold whereby a given number of objections to a development which would be recommended for approval automatically triggers a referral to the Planning Committee for decision. Throughout the Tees Valley this threshold varies between three and six objections, with Hartlepool currently having three, the lowest threshold for referral to Planning Committee.
- 4.12 Stockton (six objections, or more) and Redcar and Cleveland (five objections, or more) have introduced increased thresholds following recent reviews. They report that the additional flexibility has allowed for minor objections to be resolved through discussion between parties and these have often been resolved to the mutual satisfaction of all parties.

- 4.13 Darlington where the current objection threshold is over 2 objections, have indicated that they would welcome an increased threshold of objections leading to committee referral. It is argued that this is because the number of objections does not always reflect the significance, or weight, of each objection. For example, one objection might be on a minor technicality whilst another may be for a fundamental obstruction or loss of amenity. Currently, both arguments hold the same weight.
- 4.14 Those with higher thresholds report that there is absolutely no loss to the democratic process or accountability of Members/Committee. This is because the vast majority of cases present either no objection, in which case normal delegation applies; or dozens of objections, in which case a committee decision automatically follows. It is considered that referral of applications where only a small number of objections have been received only serves to burden committee with additional, straight-forward cases, where the officer recommendation is often endorsed and the application is needlessly delayed. A copy of a delegated report presented to the Chair of the Planning Committee is attached to this report **Appendix C** for Members information.
- 4.15 Although the report by Middlesbrough advocates an increase in the threshold of objections which trigger applications being presented to Planning Committee, it is considered by HBC Officers that the current delegation system, particularly on the basis of concerns raised by Members previously is appropriate and should be retained. However should circumstances change for example in relation to amount of applications being referred leading to increase duration or frequency of Planning Committees or due to human resource implications this can be re-assessed.

Appeals

- 4.16 Members raised concerns that they were authorising officers to contest appeals relating to delegated decisions where they had not determined the planning application. With regard to this it should be note that planning appeals can also occur when a none contentious application has been approved with conditions, an applicant can appeal against a planning condition for example and whilst this is not common it does take place.
- 4.17 It would not be feasible given the constraints of time and resources to determine all applications at the planning committee, and this approach would go against Government advice which advocates planning delegation.
- 4.18 Should Members request all recommendations for refusal are referred to Planning Committee this will increase the items determined by the Planning Committee and slow the process of determining planning

applications. Essentially the Local Planning Authority would be unlikely to achieve targets for determination.

- 4.19 For information in 2010 HBC received 16 appeals:
- 11 refused by the current delegation system, 6 dismissed at appeal, 3 allowed and 2 part dismissed and part allowed. The part dismissed and allowed decisions were also recommended by Officers, however current legislation does not allow for this decision to be made by Local Planning Authority's.
 - 3 refused at planning committee with a recommendation by Officers to refuse, all were dismissed.
 - 2 refused by the planning committee against officer recommendation, both were allowed.
- 4.20 In 2009 HBC received 12 (13 including 1 later withdrawn) appeals:
- 8 refused under the current delegated scheme, 6 dismissed at appeal and 2 allowed.
 - 4 refused by planning committee against officer recommendation, 1 was dismissed at appeal, 3 allowed.
- 4.21 It is recommended that in terms of authorising appeals to avoid unnecessary delays (as there are time limits associated with the submission of information to the Planning Inspectorate) it is recommended that where an application is determined by the delegation scheme this procedure is also used to seek authorisation to contest any subsequent appeal arising.

HBC Schemes

- 4.22 Prior to the current scheme of delegation, all development within Council buildings and land were automatically referred to Committee for determination. Whether the development is a new porch, access ramp, extension or new-build.
- 4.23 Hartlepool, Stockton and Darlington all amended this condition in their respective schemes of delegation and have reported that this has expedited work on council property as well as saving significant time for officers when processing these applications. In contrast, Redcar and Cleveland have no delegated powers in this area and it is reported to be an area of much frustration. In waiting for committee approval, urgent developments can be delayed for several weeks.
- 4.24 Of course not all cases are straightforward or mundane. And indeed, in these instances, committee consideration is essential.

Frequency/Duration of Planning Committee meetings

- 4.25 Hartlepool averages a Planning Committee meeting once every four weeks. This equates to 13 meetings a year which is an average frequency of Committee's in other Tees Valley Authorities.

- 4.26 The Chair of the Planning Committee recently imposed a time limit for the duration of the Planning Committee to end at 1pm as even with the current delegated scheme the committee often ran into the afternoon, from a 10am start (and sometimes sooner in the case of site visits prior to the start of a Committee).
- 4.27 Should the delegated system be revised to allow for instance the committee to consider and determine:
1. all recommendations for refusals;
 2. all applications for HBC schemes;
 3. all applications where there are objections;
- It is safe to assume that there would be either a need to extend the Planning Committee's duration or their frequency to expedite the turnaround of applications. However, with the current scheme of delegation Hartlepool would be able to continue to enjoy enhanced performance.
- 4.28 Prior to the current system being implemented it was not uncommon for a Planning Committee to consider between 20 – 30 planning applications in one session, compared with the current system which sees generally up to 8 items being consideration. This obviously had implications not only for Officers time but also Councillors, financial implications for example to provide refreshments for Councillors and also implications in terms of the quality of the debate for each item.

Officer Time / Human Resources

- 4.29 Within the context of challenging resource restrictions for Local Authorities, it is increasingly important that services are efficient, robust and able to discharge their statutory obligations as economically as possible. The Planning Service is uniquely exposed to these pressures as it relies on both public funding and a buoyant private sector to finance the service. With both of these sources increasingly stretched, it is prudent to review the delivery of Planning Services to ensure that performance can be maintained or enhanced, with reduced resources.
- 4.30 Current budget cuts only reflect the first tranche of savings that will be necessary over the coming years. Therefore, any proposed review must not only consider the current budget pressures, it must also anticipate the availability of finance in the medium term.
- 4.31 In facilitating the Planning Committee, significant officer time is required to prepare for the committee, investigate technical issues in order to advise Councillors, fulfil governance arrangements and of course time spent in the actual attendance of the meetings. When taken over the course of a year, these costs can be considerable and should the number of Planning Committee's increase or the duration of the Planning Committee extend there inevitably will be an impact on the Planning Service.

4.32 As each officer fulfils a different function and spends a different amount of time preparing for the committee, it is important to differentiate officer time by the time they spend on committee preparation and the committee itself. The following conservative assumptions have been made:

- The Planning Manager spends the equivalent of two working days (15 hours) preparing for the meeting in each committee cycle;
- Officer time in the preparation of Committee reports, minutes etc, i.e. admin, planning technician spends approximately 3 hours
- The representative from legal spends three hours preparing for Committee;
- All other officers spend approximately one hour preparing for Committee; and,
- The Committee takes an average of three hours.

4.33 Although no costs have been calculated for Hartlepool's Planning Committee Middlesbrough have assessed a smaller amount of officer time and concluded that when applied to an average attendance of six officers per Committee (as they generally have present and which is comparable to that of Hartlepool), an average Planning Committee costs over £1,000 in officer time alone.

5 PROPOSED DELEGATION

5.1 Delegation has benefits for all stakeholders in terms of simplifying procedures, minimising costs and freeing up Committee members to concentrate on major or controversial cases. Where there is no need to await a committee decision, up to four weeks can be saved in dealing with a planning application. Delegation is a positive process that gives benefits not just in terms of streamlining internal procedures but also in terms of improved responsiveness for applicants. Delegation is not designed to transfer power from elected members to officers, nor is it a method to dilute the transparency of the Development Control process.

5.2 It is submitted that the present Officer Delegation Scheme continues to be relevant in that it serves to minimise delay in the determining of the great majority of applications which are consistent with policy and uncontroversial, but also provides for the more controversial proposals to be considered by Committee.

5.3 As indicated, the current delegation scheme does not prevent a Councillor making a request for referral to committee ('call in'). The scheme also requires that where two letters of objection have been received, that approval under delegated powers, requires consultation with the Chair of the Committee. However the Chair of the Planning Committee and/or Planning Services Manager do currently have discretion to take an item which meets the current delegation system to Planning Committee should they consider the item should be considered by the Planning Committee.

- 5.4 As an example at the April 2011 Planning Committee 6 out of 10 items to be considered could have been determined under delegated powers, however due to the Chairman requesting 1 item to be referred the Committee and the Planning Services Manager referring 5 items these items were referred. **Appendix D** identifies the items referred for Members information.
- 5.5 It is recommended that Members are no longer requested to authorise the contesting of planning appeals where they have been determined under the scheme of delegation, however appeals should still be brought to Members attention to note.
- 5.6 A clear map/flowchart for the scheme of delegation including triggers and timescales should this scheme of delegation be approved is attached at **Appendix E**. This will allow for clearer identification of what should, and should not, be referred to Committee.

6 RECOMMENDATIONS

- 6.1 That Members note the contents of this report and agree the scheme of delegation as proposed in Appendix E.
- 6.2 Should Members agreed to amend the scheme of delegation it has been confirmed by Legal Services that this would need to be referred to Council for further consideration as the current Development Control Scheme of Delegation is contained within the Planning Code of Practice.

APPENDIX A – Tees Valley Comparisons

Authority	Middlesbrough	Stockton	Hartlepool	Redcar and Cleveland	Darlington	National
Major applications within 13 weeks	Middlesbrough	Stockton	Hartlepool	Redcar and Cleveland	Darlington	National
2007	96%	80%	72%	83%	53%	71%
2008	88%	96%	55%	67%	61%	69%
2009	100%	94%	76%	77%	75%	71%
2010	80%	91%	64%	81%	67%	70%
Minor applications within 8 weeks	Middlesbrough	Stockton	Hartlepool	Redcar and Cleveland	Darlington	National
2007	87%	83%	77%	86%	64%	77%
2008	83%	84%	75%	81%	71%	76%
2009	89%	92%	82%	88%	78%	78%
2010	90%	91%	81%	92%	66%	77%
Other applications within 8 weeks	Middlesbrough	Stockton	Hartlepool	Redcar and Cleveland	Darlington	National
2007	91%	85%	68%	93%	64%	68%
2008	90%	87%	62%	95%	65%	67%
2009	94%	92%	90%	96%	68%	68%
2010	95%	94%	66%	91%	75%	67%
	Middlesbrough	Stockton	Hartlepool	Redcar and Cleveland	Darlington	National
Decisions 2010	584	1,089	539	754	725	
Number of planning applications decided through Committee 2010	140	44	38	68	138	
Delegated Decisions % 2010	76%	96%	93%	91%	81%	91%
Income Generated 2010	339,915	664,953	314,262	371,542	187,453	
Frequency of Planning Committee meetings	3 weeks	3/4 weeks	4 weeks	4 weeks	4 weeks	
Membership Numbers (Councillors)	11	14	17	13	13	
Committee Quorum	3		7	5	4	
Annual site visits	Average 3 per outing. An outing precedes most meetings (3x17) = 51 sites visited per year.	3 - exceptions basis	6 - exceptions basis	6 - exceptions basis	3 - exceptions basis	
Method of site visit	Minibus from the town hall - on the day of the committee meeting or the day before. All visits are conducted before discussion in the committee.	Minibus from town hall - no refreshments.	Minibus from town hall - no refreshments, if over running items will be deferred to a later date.	Members make own way	Members make own way	
Powerpoint presentation / comprehensive photos / plans / slides	Yes	Yes	Yes	Yes	Yes	
Chair delegations	No		Yes - 1 or Two Objections = Chair delegated decision	No	Yes - 2 objections	
Complaints triggering committee review of application	Any / three or more???	6 or more	3 or more	5 or more	3 or more	
Who has the right to call in an application for committee review?	Any Council Member	Any Council Member	Any Council Member	Any Council Member	Any Council Member	
Are major applications delegated?	Yes		Yes - with chief officer discretion to take to committee	Yes - with chief officer discretion to take to committee	Yes - with restrictions	
Average number of items per committee meeting	6	4	6	5	6	
Can members vote if site visits are not attended?	No		Yes	No	Yes	
How are site visits instigated i.e. member request?	Member request, officer recommendation and applicant / objector request		Member request - following presentation	Member request - following presentation	Member request - following presentation	
Preapplication process formalised?	Yes - Comprehensive and with a customer focus. Relationships are vital.		Yes - seen as vital	Yes - increasingly used	Yes - comprehensive	
Avg duration of committee meeting	10 am to 3pm average, inc site visits. 5 hours		The chair has set a maximum time limit of 3 hours, 10am - 1pm	up to three hours, chair can choose to extend if necessary or resolve to reconvene.	up to two hours	
Officer refusals referred to committee?	All	All	Officer delegated	No - delegation is seen as complete	where 5 or more letters of support have been submitted	
School / Council Property applications delegated	No	Yes	Yes	No	Yes	
Delegated Power to enter section 106 agreements	Yes		Yes	Yes - not amends	Yes	
Appeals 2009/10	18	52	11	7	18	44
Appeals Granted	5	14	5	4	6	15
Granted %	28%	27%	45%	57%	33%	34.00
Appeals Dismissed	13	38	6	3	12	29
Dismissed %	72%	73%	55%	43%	67%	66.00
Ombudsman planning complaints 2008	4	12	10	4	8	
Ombudsman planning complaints 2009	5	7	5	8	9	
Ombudsman planning complaints 2010	3	8	4	8	9	
Maladministration judgements since 2005/06	0	0	0	0	2	

APPENDIX B – Example of a weekly list



Week: 22

Weekly list of applications.

Copies of plans may be inspected at:

Development Control
Hartlepool Borough Council
Bryan Hanson House
Hanson Square
HARTLEPOOL
TS24 7BT

During Normal Office hours - Monday - Thursday 8.30am - 5.00pm and Friday 8.30am - 4.30pm

Application No: Valid Date: Application Type:	Proposal:	Location of works:	Applicant/Agent Details
H/2011/0289 31-May-11 Tree Works - TPO	Tree works to tree No. 322 on TPO No. 56 to crown lift to increase visibility	FOUR WINDS COURT WEST PARK	Mr Edward Egglestone Edward Egglestone & Co3-5 Scarborough Street Hartlepool TS24 7DA
H/2011/0290 27-May-11 Full Plans Application	Erection of a single storey extension to provide porch at front, bedroom, bathroom, kitchen and lounge at side and rear (granny annex)	6 SELBY GROVE HARTLEPOOL TS25 1LZ	MRS DOROTHY GRYLLS 6 SELBY GROVE HARTLEPOOL TS25 1LZ
H/2011/0291 2-Jun-11 Full Plans Application	Erection of a single storey hall and lounge extension at the front and alterations to integral garage to provide sitting room	27 FULBECK CLOSE TS25 5TU	Mr Alan Roberts Cad-Link Architectural Services Ltd26 Mountston Close Hartlepool TS26 0LR

Would members please note that if they wish any application to be referred to Planning Committee and not be dealt with under Delegated Powers, they should write to Chris Pipe, within 21 days of the date shown below, explaining why they consider the application should be referred to committee. Applications for non material amendments (NMA) are dealt with within 28 days of receipt, any comments should be made directly to the planning officer as soon as possible as decisions can be made as soon as possible, many before the 28 day deadline.

Report Produced on: 07/06/2011

Appendix C - Copy of Delegated Report to the Chair of the Planning Committee

Application No H/2011/0113 **CHAIR REFUSAL**

Proposal Variation of condition I attached to planning approval H/FUL/0399/92 to allow Monday to Sunday opening between 3pm - midnight

Location 404 CATCOTE ROAD HARTLEPOOL

PS Code:16



DELEGATION ISSUES	Neighbour letters:	21/04/2011
	Site notice:	03/05/2011
1) Publicity Expiry	Advert:	N/A
	Weekly list:	24/04/2011
	Expiry date:	23/05/2011
2) Publicity/Consultations The application has been advertised by way of neighbour notification and site notice. The time period for representation has now expired. One response received raising no objections. Police – Letters of concern have been received. Head of Public Protection - Whilst I would find it difficult to sustain an objection to this application I am aware that these shops have attracted anti-social behaviour in the past. Considering that all the other shop units in this precinct are closed by 11:00pm and that there are residential flats above the shops I am of the opinion that this application should be resisted.		
3) Neighbour letters needed		N
4) Parish letter needed		N
5) Policy Com12: Food and Drink Com5: Local Centres GEP1: General Environmental Principles Comments: There are no planning policy concerns		
6) Planning Considerations The site to which this application relates is an existing hot food takeaway shop located on the Fens Shopping Parade. The premises are located within a Local Centre (Com 5) which includes a variety of retail uses such as a supermarket, bookmakers, bakery and hairdressers. There are residential flats located above the commercial units in many circumstances. There are further residential properties located within close proximity, the nearest being approximately 50m away upon Catcote Road. <u>Relevant Planning History</u> H/FUL/0399/92 (allowed on appeal) – Committee Members refused planning permission for the change of use from a laundrette to a hot food takeaway in September 1992.		



The main reasons for refusal was the impact of the proposal on the amenity of the occupants of the flats above and nearby houses by reason of noise, odours and disturbance. Also by the congregation of customers likely to be attracted to the ship at a time of day when residents might reasonably expect the peaceful enjoyment of their homes.

An appeal was subsequently lodged against this refusal and allowed by the Planning Inspectorate subject to various conditions including:-

The premises shall not be open for business before 0900 hours nor after 2315 hours on Mondays to Saturdays and not at all on Sundays

H/FUL/0101/94 - An application was submitted to allow Sunday opening of the takeaway. The application was refused for similar reasons to those originally outlined in the 1992 application. The decision was not appealed by the applicant.

The Application

The application seeks consent for the variation of condition 1 attached to planning approval H/FUL/0399/92 to allow Monday to Sunday Opening between 3pm and Midnight.

Planning Considerations

The main considerations in this instance is the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan and the effect upon the amenities of the occupants of nearby residential properties.

Policy

Policy Com 12 (Food and Drink) of the Hartlepool Local Plan 2006 makes provision for food and drink developments where there will be no significant detrimental effect on the amenities of the occupants on the adjoining or nearby properties, highway safety and the effect on the character, appearance and function of the surrounding area. The policy states categorically that hot food takeaway uses will not be permitted in predominantly residential areas where they adjoin residential properties.

Planning permission was granted upon appeal by the Planning Inspectorate on 4th February 1992 and therefore the use of the hot food takeaway is established. Notwithstanding the above, the planning condition to which this variation relates to was attached:

The premises shall not be open for business before 0900 hours nor after 2315 hours on Mondays to Saturdays and not at all on Sundays

It is considered that the above condition was attached as the Inspector at the time considered that any later opening hours or Sunday opening



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would be to the detriment of the amenity of nearby residents. It is further considered that in determining an application for a variation of opening hours it is imperative that officers consider Policy Com 12.

Within the consideration of this application it is acknowledged that there are commercial properties within the locality, including a hot food takeaway (longstanding use) and a public house, these businesses have the potential to operate business hours beyond those which are being applied for. Notwithstanding this, it is prudent to state that the Local Planning Authority, whilst considering the operational hours of surrounding properties have a roll in controlling development which has the potential of impacting upon amenity etc in determining applications of this nature.

Amenity

The main issue for consideration in assessing this application is ultimately the additional 45 minutes the premises will be open Monday to Saturday and the Sunday opening between 3 pm and midnight.

It is considered that given the nature of the hot food takeaway use it is likely that the increase in opening hours will result in detrimental noise and disturbance issues upon the amenities of the occupiers of the surrounding residential properties by way of associated comings and goings of customers visiting the premises either by on foot or by motorised vehicle. Whilst it is accepted that the increase in opening hours to midnight may seem to be a relatively minor alteration it is considered that the residents should be allowed a degree of peace and quite at an hour of the day where they may well expect it. It is considered that midnight would be contrary to the aforementioned statement. It is further considered that this view was endorsed by the Planning Inspector when allowing the appeal at the premises by imposing conditions which were "intended to ensure that the amenities of nearby residents are protected".

The Head of Public Protection has provided the following comments:

Whilst I would find it difficult to sustain an objection to this application I am aware that these shops have attracted anti-social behaviour in the past. Considering that all the other shop units in this precinct are closed by 11:00pm and that there are residential flats above the shops I am of the opinion that this application should be resisted.

The Police have raised concern with regard to the proposal. Hartlepool Police are of the opinion that if additional opening time is granted this will result in undermining both the crime and disorder and public nuisance objectives. The Police concerns have been summarised as follows:

The Fens parade of shops has historically been a problem area due mainly to youth disorder and anti social behaviour. The physical layout of the parade is such that there is an underpass at one side of the precinct that leads onto an open area and access to the residential estate. Mandos premises are directly beneath this underpass which is one of the



main gathering points for youths as it offers natural shelter. When officers are on patrol and are attempting to move congregated youths on they historically use the fact the pizza shop is open and they are outside as they intent on purchasing food from the premises. The numbers gathering at this "focal point" are intimidating members of the public and are a nuisance to the residents of the flats situated above the shops on the precinct. The residents are raising this concern to local officers. Patrolling officers confirm that the groups automatically disperse when the pizza shop closes. As this is a residential area and inhabited flats are directly above the premises the anti social aspect of the youth at the present is not acceptable, later opening would increase this issue even further and later into the night. It is strongly believed by Police that if extended opening times were granted to this establishment it would increase the likelihood of congregated youths staying in the area longer, therefore increasing the likelihood of crime and disorder as well as increase demand on policing time and staff.

On balance, taking into consideration the above comments outlined by the Head of Public Protection and Hartlepool Police, as well as considering the existing opening hours of businesses in the immediate vicinity, it is considered that the variation of opening hours to those proposed would result in a significant detrimental impact upon the amenities of nearby residents by reason of noise, smells, disturbance and by the congregation of customers particularly at a time when residents might reasonably expect the peaceful enjoyment of their home. It is for the aforementioned reasons that the Local Planning Authority are unable to support this application.

7) Chair's Consent Necessary	Y
8) Recommendation	REFUSE

CONDITIONS/REASONS

In the opinion of the Local Planning Authority the approval of opening hours Monday to Sunday between 3pm and midnight would be detrimental to the amenities of nearby residents by reason of noise and disturbance by the likely increased and prolonged congregation of customers likely to be attracted to the premises, particularly at a time when residents might reasonably expect the peaceful enjoyment of their home. It is considered that the additional opening time would undermine the crime and disorder and public nuisance objectives of Hartlepool Police.

Signed:

Dated:

Director (Regeneration and Neighbourhoods)
Development Control Manager
Principal Planning Officer
Senior Planning Officer

I consider the scheme of Officer/Chair delegation to be appropriate/inappropriate in this case

Signed:

Dated:

Chair of the Planning Committee

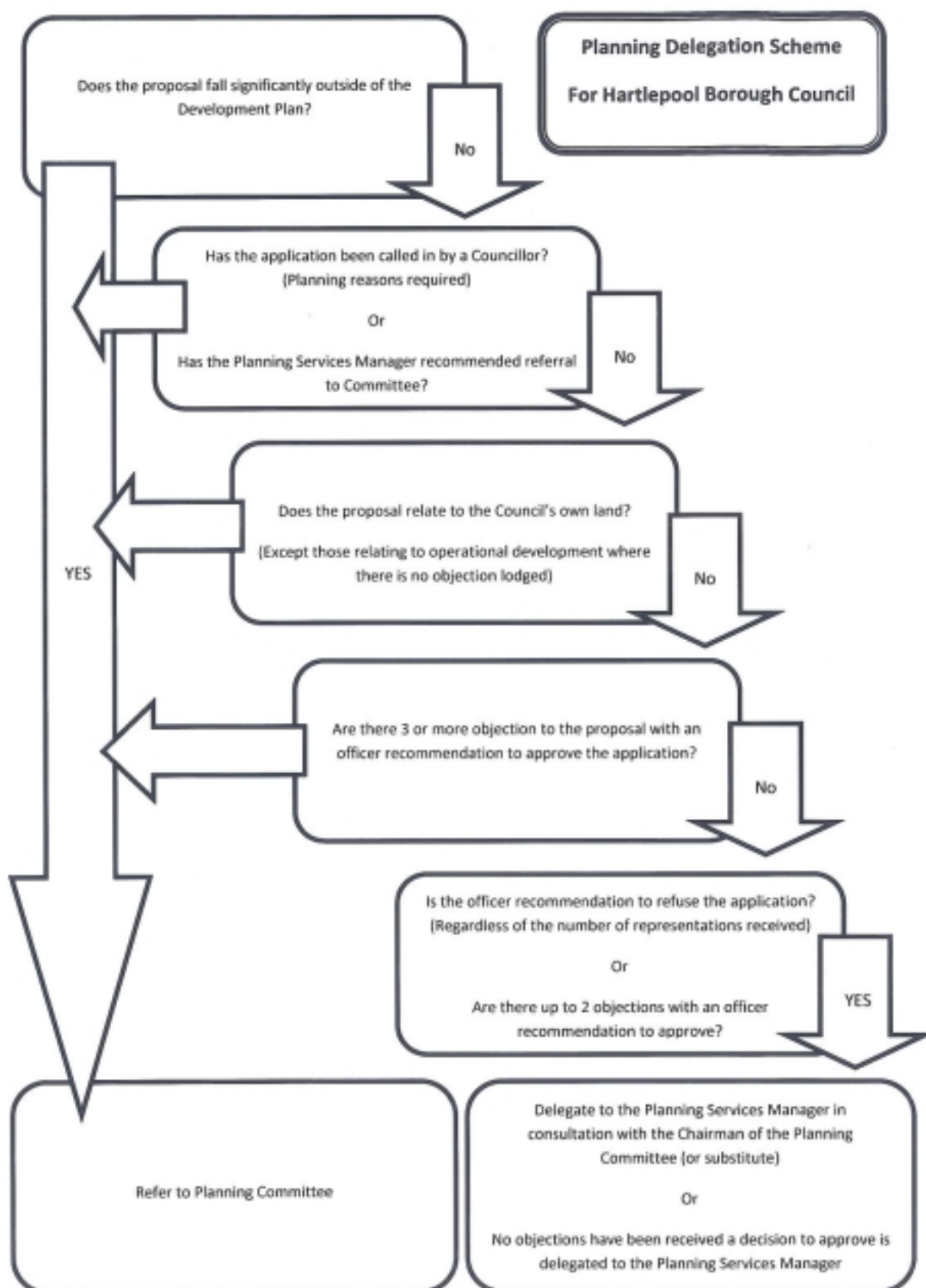
APPENDIX D – April 2011 Agenda**PLANNING COMMITTEE****20 April 2011**

PSM – due to finance issues	1	H/2011/0082	Ardrossan Road - CCTV
CPC – due to nature of the development	2	H/2011/0002	19 Rillston Close – residential ext
PSM – due to nature of the development	3	H/2010/0589	54 Fernwood Avenue – residential ext
	4	H/2011/0138	132 Station Lane – variation of condition re: hours of operation
PSM – due to site history	5	H/2011/0160	132 Station Lane – variation of condition re: size of service vehicles
PSM – due to link with H/2010/0648	6	H/2010/0672	Throston Grange Court, Monmouth – residential development
	7	H/2011/0031	Land to the west of Eaglesfield Rd – nursing home
	8	H/2010/0648	Land to the rear of St. Marks Church – residential development
PSM – due to history with the site	9	H/2011/0118	Sylvan Mews – use for general occupation
	10	H/2011/0014	Land to the west of Eaglesfield Rd – residential development

Referring to Planning Committee by the Planning Services Manager (PSM)

Referred to Planning Committee by the Chair of the Planning Committee (CPC)

APPENDIX E – Proposed Delegation Scheme



* Where an appeal arises from a decision, the authority to contest the appeal will be given by the route the application was determined.