

PLANNING COMMITTEE AGENDA



Wednesday, 5th July, 2006

at 10.00 a.m.

in Committee Room “B”

MEMBERS OF PLANNING COMMITTEE:

Councillors D Allison, Belcher, R Cook, S Cook, Henery, Iseley, Kaiser, Lauderdale, Lilley, Morris, Payne, Richardson, M Waller, R Waller, Worthy 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 7th June 2006 (*attached*)

4. ITEMS REQUIRING DECISION

- 4.1 Application to add a Public Footpath, from Elwick Road to Manor Road, to the Definitive Map and Statement – *Director of Adult and Community Services and Chief Solicitor*

- 4.2 Planning Applications – *Assistant Director (Planning and Economic Development)*

1. H/2006/0383 28 Courageous Close
2. H/2006/0420 Belle Vue Service Station
3. H/2006/0391 Golden Lion
4. H/2006/0114 East Lodge
5. H/2006/0311 Brierton Moorhouse Farm
6. H/2006/0460 Seaton Meadows

7. H/2006/0197 17 Moor Terrace
- 4.3 Update on Current Complaints – *Head of Planning and Economic Development*
- 4.4 Current Position on Untidy/Derelict Land and Buildings – *Head of Planning and Economic Development*
- 4.5 Appeal Ref APP/HO724/A/2008070: H?2005/5856 Change of Use of Vacant Offices to Hot Food Takeaway (A5 Use), 197 York Road, Hartlepool TS26 9EE – *Assistant Director (Planning and Economic Development)*
- 4.6 Appeal By Mr Lloyd Nichols Site at 15-17 The Front, Seaton Carew, Hartlepool – *Assistant Director (Planning and Economic Development)*
- 4.7 Conservation Area Advisory Committee – *Assistant Director (Planning and Economic Development)*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

6. **FOR INFORMATION**

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of Monday 31st July 2006 at 10.00 am

Next Scheduled Meeting – Wednesday 2nd August 2006 at 10am

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

7th June, 2006

Present:

Councillor Rob Cook (In the Chair)

Councillors Stephen Belcher, Shaun Cook, Gordon Henery, John Lauderdale, Geoff Lilley, George Morris, Robbie Payne, Carl Richardson, Maureen Waller and Gladys Worthy.

Also Present: In accordance with Paragraph 4.2(ii) of the Council's Procedure Rules, Councillor John Marshall as substitute for Councillor Derek Allison, Councillor Victor Tumilty as substitute for Councillor Stan Kaiser and Councillor Jonathan Brash as substitute for Councillor Ray Waller.

Officers: Richard Teece, Development Control Manager
Peter Devlin, Legal Services Manager
Jane Tindall, Planning Officer
Chris Roberts, Development and Coordination Technician
Chris Scaife, Countryside Access Officer
Sarah Scarr, Landscape Planning and Conservation Manager
Pat Watson, Democratic Services Officer

1. Apologies for Absence

Apologies for absence were submitted for Councillors Derek Allison, Bill Iseley, Stan Kaiser and Ray Waller.

2. Declarations of interest by members

Councillor Lauderdale declared a personal and prejudicial interest in Planning Application H/2006/0232 and left the meeting during consideration of the item.

3. Confirmation of the minutes of the meeting held on 17th May, 2006

The minutes were confirmed.

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

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

Number: H/2006/0328

Applicant: PD Teesport
17-27 Queens Square Middlesbrough

Agent: Nathaniel Litchfield & Partners Justine Yarwood
Generator Studios Trafalgar Street Newcastle Upon Tyne

Date received: 02/05/2006

Development: Outline application for a new gateway deep sea container terminal

Location: Teesport Middlesbrough

Decision: **That the Council raises no objection to this proposal subject to no objections from English Nature.**

Cllr Lauderdale left the meeting at this point

Ian Pay (on behalf of the applicants) addressed the Committee in relation to the following application:

Number: H/2006/0232

Applicant: George Wimpey NE Ltd
Lockhead Court Preston Farm Stockton on Tees

Agent: P & H S Architects The Old Station Station Road
STOKESLEY

Date received: 20/03/2006

Development: Erection of 174 dwellings including garages and

associated works

Location: Bounded By Chatham Road/Raby Road/Chester Road/Acclom Street Hartlepool

Decision: **Minded to APPROVE subject to an amendment involving the deletion of one of the plots closest to the Chester public house, the completion of a S106 agreement in relation to a contribution towards the provision of off site play facilities and the following conditions but a final decision was delegated to the Development Control Manager in consultation with the Chair and Vice Chair of the Planning Committee**

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) ##### received on ** ** **, unless otherwise agreed in writing by the Local Planning Authority. (To be confirmed)
For the avoidance of doubt
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.
In the interests of visual amenity.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no garage(s) other than those expressly authorised by this permission shall be erected without the prior written consent of the Local Planning Authority.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
6. 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.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the approved programme. 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 species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
8. No dwelling shall be occupied until details of the proposed street lighting provision including a programme of works have been submitted to and approved in writing by the Local Planning Authority. Street lighting shall thereafter be provided in accordance with the approved details.
In order to ensure that these details are acceptable.
9. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Redamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Redamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.
To ensure that any site contamination is addressed.
10. Where the proposed first floor window(s) in the side elevations of houses shall be glazed with obscure glass. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no additional window(s) shall be inserted in the side elevations of any dwelling houses without the prior written consent of the Local Planning Authority.
To prevent overlooking
11. No development shall commence until details of the proposed means for the disposal of surface water arising from the site have been submitted to and approved in writing by the Local Planning Authority. The

development shall thereafter be carried out in accordance with the approved details.

In order to ensure that satisfactory measures for the disposal of surface water are in place.

12. Prior to the commencement of development the existing public sewer within/close to the site shall be accurately located. It shall be protected from damage before and during construction/demolition work unless otherwise agreed in writing with the Local Planning Authority.
In order to ensure the existing public sewer system is accounted for during the development of the site.
13. Prior to the commencement of development details of any proposal to phase the development of the site shall be submitted to and agreed in writing with the Local Planning Authority.
In order to ensure that any phased development does not detract from the amenity of the area.
14. The alleygates at the entrances to the alleys to the rear of the properties fronting Wynstay Gardens shall be retained and if temporarily removed shall be reprovided no later than the final substantial completion of the development.
In the interests of crime prevention and security..
15. Unless otherwise agreed in writing by the Local Planning Authority all the doors and windows in the development shall be provided to meet secured by design principles.
In the interests of crime prevention and security.
16. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.
17. Prior to the commencement of development, details of the proposed alterations to the elevations and layout of the Chester Public House, including any provision for noise insulation and extraction/ventilation, shall be submitted to and approved in writing by the Local Planning Authority.
In the interests of the visual amenity of the area and the amenity of occupiers of neighbouring properties.
18. The servicing area shown to be provided to the rear of the Chester Public House shall not be open to the public. It shall be kept clear of obstruction and retained for the use of vehicles servicing the Chester at all times.
In the interests of the amenity of neighbouring residents.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure, shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road, without the prior written consent of the Local Planning Authority.
In the interests of amenity and highway safety.
20. No fence, wall building or other structures shall be placed within the visibility splays of the accesses into the site from Chatham Road or

Chester Road unless approved in writing by the Local Planning Authority. No plants, trees bushes within the aforementioned visibility splays shall be allowed to exceed one metre in height above ground level. In the interests of highway safety.

21. The wall/enclosure enclosing the service area of the public house shall be an acoustic wall/enclosure, details of which shall first be submitted and approved in writing by the Local Planning Authority. The acoustic wall/enclosure shall be provided before the first occupation of the dwelling house on plot. (To be confirmed)
In the interests of the amenity of future occupancy of the nearby dwellinghouse

The Committee considered representations in relation to this matter.

Number: H/2006/0282

Applicant: Mandale Commercial Ltd
P.O. Box 29 Stockton on Tees

Agent: Elder Lester Garland McGregor Reeds Mill Atlas
Wynd Yarm

Date received: 03/04/2006

Development: Erection of a small retail/food unit

Location: SLAKE TERRACE HARTLEPOOL

Decision: **Planning Permission Refused**

1. It is considered that the proposed unit in this prominent location would appear isolated and out of keeping in the street scene to the detriment of the visual amenities of the area contrary to policy GEP1 of the adopted Hartlepool Local Plan 2006.

The Committee considered representations in relation to this matter.

Mr Maxwell (applicant) addressed the Committee in respect of the following application:

Number: H/2005/5639

Applicant: Mr SMaxwell
17 GRANGE ROAD HARTLEPOOL

Agent: Malcolm Smith & Partners Havelock House 24

Victoria Road HARTLEPOOL

Date received: 06/01/2006

Development: Installation of UPVC windows to front elevation and door and provision of downpipe and guttering (retrospective application)

Location: 17 GRANGE ROAD HARTLEPOOL

Decision:

- (a) **Planning Permission Approved as Members took the view that the proposed alterations improve the appearance of the property and are not out of keeping in the Conservation Area.**
- (b) **The Committee resolved that a Planning Working Party, consisting of the Chairman, Vice-Chairman and 3 others (politically balanced) be formed to consider the implications of this decision, the 3 following decisions and Conservation Area issues in general.**

The Committee considered representations in relation to this matter.

Mr Travis (applicant) addressed the Committee in relation to the following application:

Number: H/2006/0050

Applicant: Mr A T Travis
98 GRANGE ROAD HARTLEPOOL

Agent: Mr A T Travis 98 GRANGE ROAD HARTLEPOOL

Date received: 23/01/2006

Development: Replacement of wooden sash windows to front elevation with UPVC

Location: 98 GRANGE ROAD HARTLEPOOL

Decision: **Planning Permission Approved as Members took the view that the proposed alterations improve the appearance of the property and are not out of keeping in the Conservation Area.**

The Committee considered representations in relation to this matter.

Number: H/2005/5411

Applicant: Mr DCook
86 CLIFTON AVENUE HARTLEPOOL

Agent: Mr D Cook 86 CLIFTON AVENUE HARTLEPOOL

Date received: 20/05/2005

Development: Retention of UPVC windows to front elevation

Location: 86 CLIFTON AVENUE HARTLEPOOL

Decision: **Planning Permission Approved as Members took the view that the proposed alterations improve the appearance of the property and are not out of keeping in the Conservation Area.**

The Committee considered representations in relation to this matter.

Zeba Alam (on behalf of the applicant) addressed the Committee in respect of the following application:

Number: H/2005/5387

Applicant: Mr I Miah
34 GRANGE ROAD HARTLEPOOL

Agent: Mr I Miah 34 GRANGE ROAD HARTLEPOOL

Date received: 11/07/2005

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

Location: 34 GRANGE ROAD HARTLEPOOL

Decision: **Planning Permission Approved as Members took the view that the proposed alterations improve the appearance of the property and are not out of keeping in the Conservation Area.**

The Committee considered representations in relation to this matter.

5. Application to add a Public Footpath, from Elwick Road to Manor Road, to the Definitive Map and Statement *(Director of Adult and Community Services and Chief Solicitor)*

Purpose of Report

To seek the Committee's consideration of an application to add a public footpath, from Elwick Road to Manor Road, to the Definitive Map and Statement.

Issues considered by the Committee

The detailed report provided to Members contained general background information and history of the footpath. The report also provided details of:

- the claimed path;
- the applicants;
- the landowner and adjoining landowners;
- consultation that had taken place;
- Legislation;
- Consideration of evidence – documentary evidence;
- Definitive Map and Statement;
- Durham Archive Research;
- Installation of the Chicane;
- Alleged Public Footpath sign;
- Development of Manor Road Properties – 6-24;
- Agreement document;
- Consideration of Evidence – Evidence of use and witness statements;
- Evidence that there was no intention to dedicate – landowners response;

The report summarised the issues and gave two options for Members consideration. An Officer recommendation was given.

Appended to the report were a plan covering the area of the public footpath between Elwick Road and Manor Road, a bar chart of usage period and an Investigation Report,

Decision

The consideration of the issue be deferred pending a Members' site visit to take place on 5th July at 9am..

6. Update on Current Complaints *(Head of Planning and Economic Development)*

Members were advised that during the four week period prior to the meeting seventy one (71) planning applications had been checked, requiring site visits resulting in various planning conditions being discharged by letter.

Members' attention was drawn to eleven (11) current ongoing issues detailed in the report.

Decision

That the report be noted.

7. Appeal by Paul Gold, Site at 12 Moorhen Road, Hartlepool *(Assistant Director (Planning and Economic Development))*

A planning appeal had been lodged against the refusal to grant planning permission for the erection of a bedroom extension above an existing conservatory at the above property. The appeal was to be decided by written representations and authority was requested for officers to contest the appeal.

Decision

That authority be granted to Officers to contest the appeal.

8. Any other items which the Chairman considers are urgent

The Chairman ruled that the following item 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.

9. 7 The Grove

The Development Control Manager advised the Committee that an appeal against the decision to refuse permission for a swimming pool projecting 12 meters along the shared boundary with the neighbouring property had been allowed.

Decision

Members noted the report.

10. Local Government (Access to Information) Act 1985

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

Minute 11 – Complaints Review (Para 6) – This item contains exempt information under Schedule 12A Local Government Act 1972, namely, information which reveals that the authority proposed to give under any enactment a notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment.

Minute 13 – Replacement Piling and Related Works 4, 5, 6, 7, 9, 10, 11, 32, 40 and 2, 3, 18 Barley Close, Meadowgate Drive and Hayfield Close (Para 5) – This item contains exempt information under Schedule 12A Local Government Act 1972, namely, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

11. Complaints Review - Assistant Director (Planning and Economic Development)) (Para 6) – This item contains exempt information under Schedule 12A Local Government Act 1972, namely, information which reveals that the authority proposed to give under any enactment a notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment

Purpose of report

To consider complaints that were outstanding

Issue(s) for consideration by the Committee

The issues considered by members are set out in the exempt section of the minutes.

Decision

The decision is set out in the exempt section of the minutes.

12. Any other exempt items which the Chairman considers are urgent.

The Chairman ruled that the following item should be considered by the Committee as a matter of urgency in accordance with the provisions of

Section 100(B)(4)(b) of the Local Government Act 1972 in order that the matters could be dealt with without delay.

13. Replacement Piling and Related works 4, 5, 6, 7, 9, 10, 11, 32, 40 and 2, 3, 18 Barley Close, Meadowgate Drive and Hayfield Close

Members were advised of the current legal position.

Decision

Members noted the report.

ROB COOK

CHAIRMAN

PLANNING COMMITTEE

5th July 2006



Joint Report of: Director of Adult and Community Services and Chief Solicitor

**Subject: APPLICATION TO ADD A PUBLIC FOOTPATH,
FROM ELWICK ROAD TO MANOR ROAD, TO
THE DEFINITIVE MAP AND STATEMENT**

1. PURPOSE OF REPORT

To seek the Committee's consideration on an application to add a public footpath, from Elwick road to Manor Road, to the Definitive map and Statement. (see **Appendix 1**)

2. BACKGROUND

2.1 General background position

- 2.1.1** One of the functions of the Council, as highway authority, is to record and protect public rights of way. The documentary side of this function is represented by the Definitive Map and Statement which provides conclusive evidence that a public right of way shown on it is a public right of way, whether as a footpath, a bridleway or a BOAT ("byway open to all traffic"). The existence of a public right of way may arise as a matter of
- ancient usage and have been recorded on the earliest maps, or
 - by dedication i.e. the owner of the land entered into an agreement with the authority for the public to have use of the way – perhaps in exchange for maintenance of the way by the authority, or
 - by prescription i.e. the public have made use of the way, as of right, for a period of time from which it may be deduced that the owner has dedicated the land as a public right of way. Prescription can occur with a relatively short period of usage when it is accompanied by clear evidence that the owner of the land has dedicated the land. Where no such clarity exists the law has prescribed that after a period of 20 years public usage as of right and without interruption, a right of way will be deemed to exist.

- 2.1.2** An owner of land is entitled to grant a private right of way over his land for the enjoyment of individuals, such as the owners and occupiers of specified land. The exercise of a right of way in accordance with such a grant and by the persons for whose benefit it is granted can never give rise to a public right of way. An owner, or the parties having the benefit of a grant, may take steps to restrict the use to those persons entitled to use it. Such steps may be by way of a physical barrier excluding unauthorised users. The barrier may be erected or positioned only periodically, but sufficient to demonstrate the owner's right to exclude unauthorised users. Alternatively, an owner may display a notice which proclaims in some appropriate words the private nature of the way.
- 2.1.3** Where a public right of way can be established through usage where previously no public right of way is recorded, legislation provides a process for submission of an application for modification of the Definitive Map and Statement (referred to in this report as the 'DMMO procedure'). Where such an application is lodged, the authority is required to make a determination whether the circumstances and history are such that the requirements for the establishment of a public right of way are fulfilled.
- 2.1.4** The remainder of this report places before the committee information which is considered to be sufficient to enable the committee to determine the issues relevant to the application in question

2.2 History

- 2.2.1** On 25th February 2005 Parks and Countryside Business Unit received a request for an application pack, to modify the definitive map. The pack was requested by a local resident.
- 2.2.2** Parks and Countryside Business Unit received the completed application on 23rd March 2005. Schedule 14 of the Wildlife and Countryside Act 1981 enables any person or organisation to apply to the surveying authority, for an Order to modify the Definitive Map and Statement. Accompanying the claim were user evidence forms, completed by people who stated that they had used the way in question, between specific dates and describing the reason why the way was used – e.g. recreation, short-cut etc. Each User Evidence Form was supported by a map, showing the route that the individual had used.
- 2.2.3** Since 23rd March 2005 the Parks and Countryside's Countryside Access Officer has evaluated all the evidence supplied and undertaken further research if sufficient evidence was provided to support the claim. Where inconsistencies were discovered in supplied user evidence forms, details were checked with the individuals who supplied them.

- 2.2.4** On the 14th April 2005, Parks and Countryside sent out a letter to the landowner, over which the route of the claimed way ran. The letter set out the Definitive Map Modification Order procedure and enclosed copies of the relevant application forms (as prescribed in law).

2.3 The Claimed Path

- 2.3.1** After looking at all the evidence supplied, the majority of claimants (9 out of 11) suggested that the width varied from 4ft within the confines of the alley, to 9ft as part of the wider lane. This approximate measurement runs in accordance with the physical limitations of the claimed route. The claimed route starts at Elwick Road (point A) running in an Easterly direction for 32 metres (to point B) whereupon it carries on in a Easterly direction for 33 metres (to point C) whereupon it runs in a South Easterly direction for 35 metres (to point D) whereupon it runs in a North Easterly direction for 35 metres (to point E) where it ends at Manor Road. The total length of the claimed route is 135 metres

- 2.3.2** At the Manor Road end of the claimed route is a locked gate. Only the Owner of the Inglethorpe, over which the claimed route runs, and residents of Manor Road have keys to access the gate. At the southern end of the alleyway section of the claimed route, grid ref' 48802:32773, is a chicane. This access furniture was installed in the 1990's to prevent use by horses, motorbikes and bicycles. (see **Appendix 1**, letter D, for location)

2.4 Applicants

One main applicant applied on behalf of 11 other users who claimed to have used the route prior to it being gated. These other users supplied Public Rights of Way User Evidence Forms (though one has subsequently withdrawn his support).

2.5 The Landowner and adjoining Landowners

- 2.5.1** The Landowner of the land over which the claimed route runs, are the current owners of Inglethorpe, Elwick Road, being the property of which the Manor Road properties previously formed part..
- 2.5.2** In respect of the length of the stretch of the route from points A – D the adjoining properties are 250 Elwick Road, 18 Manor Road, 1 Woodlands Grove, 2 Woodlands Grove, 3 Woodlands Grove and Bradgate, Elwick Road
- 2.5.3** In respect of the stretch from points D – E the owners of the adjoining properties are 12 Manor Road, Hartlepool and Greytiles, 14 Manor Road, Hartlepool. The owners of the above-mentioned properties have been consulted.

See **Appendix 1 – Plan 1** for locations of Landownership

3. CONSULTATION

3.1 The following persons and bodies were initially consulted with, regarding the claim:

Landowner (Inglethorpe)
 Ward Councilors Coward, Fortune and Morris
 The Mayor
 Hartlepool Borough Council (HBC) Planning, Estates and Highways
 Ramblers Association
 Rosemont, 2 Cresswell Road
 250 Elwick Road
 Bradgate, Elwick Road
 Catcote House, Elwick Road
 Westlands, Elwick Road
 2 Manor Road
 12 Manor Road
 18 Manor Road
 and 1,2 and 3 Woodlands Grove.
 Total of 20 recipients to this consultation

3.2 The following table shows the responses received:

Responses	Number
Landowner (Inglethorpe) – bundle of evidence opposing the application	1
Opposing the claim	4
No Comments	8
Total Responses Received	13

If not referred to above then the consultee provided no response.

3.3 Further consultation was given when an 'Investigation Report' was sent out individually to all claimants and opposers. The report summarised all the information received and discovered at that point, that had any relevance to the application. It made no recommendations, observations or determinations. The Investigation Report was sent to:

The Mayor
 3 x Ward Councillors

Landowner (Inglethorpe)

4 x opposers of the application whose properties abut the claimed route

4 x properties that abut the claimed route but had showed no interest for either side of the application

9 x opposers to the application whose property does not abut the claimed route

and 12 x claimants, two of whom are married and live at the same address.

Total of 34 recipients.

A copy of the Investigation Report is attached (see **Appendix 3**)

3.4 The following table shows the responses received:

Responses	Number
Against the application but supplying no further information	7
Withdrawing support for the application	1
Supporting the application but with no further information	2
Letter of receipt of the report	1
Total Responses Received	11

4. LEGISLATION

4.1 Under Section 53 (2) of the Wildlife and Countryside Act 1981, the Local Authority is under a duty to keep the Definitive Map and Statement under continuous review:

S53 (2) As regards every definitive map and statement, the surveying authority shall -

(a)

as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and

(b)

as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to

the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

- 4.2** Section 53 (3), as referred to in S53 (2) (a), goes on to look at the relevant legal event, in S53 (3) C (i):

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows -

(i)

that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies ;

- 4.3** Under Section 31 of the Highways Act 1980, dedication may be presumed following use by the public as of right and without interruption for 20 years.

- 4.4** All the above legislation has been taken into account when considering all the evidence supplied, discovered or researched.

5. CONSIDERATION OF EVIDENCE – DOCUMENTARY EVIDENCE

- 5.1** As part of the process of evaluating the application, the Countryside Access Officer carried out investigations into additional sources of evidence. This evidence includes Historic Maps, Ordnance Survey maps, photographic evidence as well as archived material.

5.2 Ordnance Survey Maps

The following maps were carefully examined:

5.2.1 Ordnance Survey Maps Series 1, 2, 3, 4.

Series 1 – Pre 1895

Series 2 – 1897

Series 3 – 1916 to 1922

Series 4 – 1938 to 1940

The Series 1 map shows no evidence of any track, way lane etc

In the Series 2 map a short track appears, at the Elwick Road end of the claimed route. This track looks to be part of an access lane to, what is shown as 'Pheasantry'.

On the Series 3 map the track develops into an access lane to what was then named as 'Bradgate' but was then renamed as 'Westlands'

The same track is present on the Series 4 map

5.2.2 Ordnance Survey Maps Pre Definitive Map 1952

This map does not show any different access routes to the Series 3 and 4 maps

5.2.3 Ordnance Survey Maps Definitive Map 1952

This map does not show any different access routes to the Series 3 and 4 maps

5.2.4 Ordnance Survey Maps Present day base map (Extract from the base map data 2005 accessed by the HBC Geographical Information System software)

The base map shows the full claimed route but does not and cannot indicate legal status of the route.

5.2.5 Based on Ordnance Survey Maps – Property Services (Map showing the adopted highways for the area)

This map shows that the route is not adopted highway and that the land, over which the claimed route runs, is not owned by Hartlepool Borough Council. This is backed up by the Land Registry records of Inglethorpe Landownership

5.3 Definitive Map and Statement

The Definitive Map and Statement was also consulted. No record of any Public right of Way was recorded on the Definitive Map (Register of all recorded public rights of way) and Statement.

5.4 Durham Archive Research

5.4.1 Archives at both County Hall and Durham University Library were consulted.

5.4.2 No Enclosure Maps were available, at the University Library or County Hall Archives, for the area covering the claimed route.

No other evidence was available regarding the area encompassing the claimed route.

5.4.3 As part of the research to look for evidence with regards to the claimed route, the Countryside Access Officer looked at the Tithe Map and Apportionment of Throston (of Hart) 1841. This was available at Durham University Library. There was no evidence of any path, way, footway, footpath, bridlepath, track, lane or road for the area covering the route claimed – Elwick Road to Manor Road. Only fields were evident on the

claimed route and an area called Throston Carrs (boggy area of land) to the east of the claimed route.

5.5 Installation of the Chicane

Between November 1993 and May 1995, correspondence was entered into between Manor Road residents and Hartlepool Borough Council regarding the installation of a chicane, at the southern end of the narrow alleyway section of the claimed route. The cost of the chicane was £250.00 and was born by 18 residents of Manor road, each paying £13.89 ($£13.89 \times 18 = £250.02$). This is referred to in extracts from minutes of a meeting at Tilly Bailey and Irvine (solicitors meeting), 22/10/96. The chicane was requested, and paid for, by the residents as there was bicycle, motorbike and equestrian use of the route at that time. This ceased when the chicane was installed.

5.6 Alleged Public Footpath sign

It has been alleged that there was a Public Footpath sign, in place, at the Elwick Road end of the claimed route. Nothing in Council records sheds light on this matter. Therefore the Council cannot comment further on this.

5.7 Development of Manor Road Properties – 6 to 24

This development took place between 1960 and 1968. During that period of time private access rights were granted to these properties by deeds of conveyance, by the then owner of Inglethorpe, allowing them access along the route. This is recorded within the Land Registry records for Inglethorpe

5.8 Agreement document

An agreement was signed between E C Burton Limited (EBC) – developer of the Manor Road properties for the period 1960 to 1968 – and County Borough of West Hartlepool (HBC) dated 29th November 1961. The purpose of the agreement was to require EBC to construct foul sewers and then HBC to adopt them under the provisions of the then Public Health Act 1936. This agreement also grants a right of access to the sewers to HBC in perpetuity. This lends weight to the argument that, at the date the agreement was signed, the sewers were located in private land rather than public highway.

6. CONSIDERATION OF EVIDENCE – EVIDENCE OF USE AND WITNESS STATEMENTS

6.1 Section 31 (2) relates to the 20 year rule:

(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.

- 6.2 The following section is the collection of information dealing with the application and information collated from the user evidence forms
- 6.3 12 user evidence forms were filled in by individual members of the public. Each one recorded any relevant information that could be used in making the determination of the application. There was varying usage periods recorded. **Appendix 2 – Chart 1** – shows this information using a bar chart as the visual representation.
- 6.4 11 users claimed the path as a footpath status and one user didn't claim a status. All the users regarded it as a public right of way.
- 6.5 There were varying ranges of when the usage occurred from and to. (see **Appendix 2**)
- 6.6 The type of usage was either on foot or by horse. 11 users claimed foot usage and one user claimed using the path whilst riding a horse.
- 6.7 There was a diverse range of answers with regards to where the users were going from and to. The nature of the use was Public and principally for recreation purposes.
- 6.8 All of the users said that the path had always run over the same route.
- 6.9 When asked about Barriers (stiles gates etc), again the answers varied from "No barriers", "No memory of a barrier" to barriers, including a chicane/turnstile, cycle barrier and a metal pedestrian only gateway.
- 6.10 The next three parts of the evidence supplied is to do with notices and what was written on them. The responses varied from "No notices", no answer to "there was a notice in 2002".
- 6.10.1 When asked whether the notices said anything about 'private', 'no road', 'no thoroughfare' or 'trespassers will be prosecuted', there were some differing replies ranging from "No", "Private Drive", "public footpath sign" to "a closure notice from 2002".
- 6.10.2 All of the users said that they had not been stopped or turned away when using the way or path. None had heard of anyone being turned away or stopped when using the way. All of the users said that they had not asked for permission to walk along the route and all said that they had not been told that the way was not public.

6.10.3 As there has been mention made of locked gates being used, the question was asked of the users as to "was there any gates along the route". The responses differed from there not being a gate, "no gate until recently" to "there was a gate from 2002 onwards".

6.11 For further information relating to gating dates and prevention information, as well as information on notices, refer to **Appendix 4 – chart 2**

7. SUFFICIENT EVIDENCE THAT THERE WAS NO INTENTION TO DEDICATE – LANDOWNERS RESPONSE

- 7.1** For section 31 (1) Highways Act 1980 to apply and give rise to a presumption of dedication, the following criteria must be satisfied:
- a) The physical nature of the path must be such as is capable of being a public right of way.
 - b) The use must be 'brought' into question, i.e. challenged or disputed in some way.
 - c) Use must have taken place without interruption over the period of 20 years before the date on which the right is brought into question.
 - d) Use must be as of right, i.e. without force, without stealth or without permission.
 - e) There must be insufficient evidence that the landowner did not intend to dedicate a right of the type being claimed.
 - f) Use must be by the public at large.

7.2 Section 31 (3) relates to landowners and erection of notices:

S31 (3) Where the owner of the land over which any such way as aforesaid passes -

(a)

has erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway; and

(b)

has maintained the notice after the 1 January 1934, or any later date on which it was erected;

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

(a) 'The physical nature of the path must be such as is capable of being a public right of way'. The claimed route does appear to be physically capable of being a public right of way.

(b) *'The use must be brought into question'*. There appears to have been a number of events since the 1960's, when the use may have been brought into question. It is considered that the erection of the second gate followed by the article in the Hartlepool mail on 3rd May 2000 clearly constitutes an act, which raises the issue of the status of the way sufficient to bring it home to the public that their right to use the way was being challenged. The use therefore has needed to be examined during the period of 20 years which terminated in 2000.

(c) *'Use must have taken place without interruption over the period of 20 years before the date on which the right is brought into question'*.

(i) This is not the case here. Written evidence supplied, by opposers of the application, show that there were two gates in place as far back as the late 1960's. These two gates were placed at either end of the 'alleyway' section of the claimed route (points D and E – see **Appendix 1**) and one of these gates survived into the late 1970's when a lock was added and keys issued to residents of Manor Road. This gate, which was located at point E (refer to **Appendix 1**), survived until 1988, when it was vandalised but not replaced until 2000. The latest gate is still in existence and has been locked since its installation.

(ii) Also notices have been placed at various times throughout the time period of the 1960's to date, by various successive owners of Inglethorpe. The evidence supplied/researched show that the notices stated that the path was private. They were in evidence/existence between 1983 and 1987 and then after 1992.

(iii) The notices were placed in various locations – ranging from the Elwick Road end of the route, Manor Road end of the route, in adjoining gardens of the second location and at the southern end of the alleyway section of the route. (letter D, **Appendix 1 – Plan 1**)

(d) *'Use must be as of right'*. Verbal and preventative challenges have been given by successive owners of Inglethorpe and some of the residents of Manor Road, during the same time period. These challenges were comprised of:

1. Use of a car to stop the general public from accessing the route.
2. A resident challenging people using the path, asking them to leave, as they were climbing the gate/adjacent fences, into private gardens.
3. Residents of Manor Road policing the path, turning away youths and school children.
4. Stopping school children from using the path by taking photos and informing the Headmaster of the local School.
5. Reporting one youth to the Headmaster for rigging up a tripwire across the path – the youth admitted the offence.

(e) *'There must be insufficient evidence that the landowner did not intend to dedicate a right of the type being claimed'*. The fact that notices have

been erected by successive Inglethorpe owners shows that there was no intention to dedicate this route as a public right of way.

(f) *'Use must be by the public at large'*. A handful of users from The Crest and Warkworth Drive as well as some school children are the only users that the Council can account for, with all the evidence thus supplied and this evidence must be considered as they are the Public.

7.3 It is the Council's understanding that the criteria for Section 31 Highways Act 1980 are not satisfied and that there is not sufficient evidence to suggest any intention by the owner(s) on Inglethorpe to dedicate at common law for the periods between the removal of the first gate and the installation of the second – between 11 and 12 years. This lack of evidence relates to the points below:

1. *Question of dedication at common law is one of fact to be determined on all the evidence.* Strenuous efforts have been made by landowners to prevent public access e.g. notices, gating challenges etc.
2. *use by public is evidence from which a dedication may be inferred at common law – use must be open and unconcealed to carry any weight* A handful of users from The Crest and Warkworth Drive as well as some school children are the only users that the Council can account for, with all the evidence thus supplied and this evidence must be considered as they are the Public.
3. *The extent of the Landowner's acquiescence is also material.* No evidence has been supplied, researched or discovered to give credence to this point. All evidence suggests otherwise.
4. *No specified period must be proved in order to justify an inference of dedication; caselaw has shown that as little as 18 months has been held as sufficient.* No evidence supplied shows that there was any period of time that justifies an inference of dedication.
5. *a single act of interruption by the owner is of much more weight than many acts of enjoyment by the public.* These acts of enjoyment by the public are heavily outweighed by the wealth of evidence supplied by successive Landowners and adjacent Landowners

7.4 Land Registry Records

Land Registry records for Inglethorpe were obtained from the Land Registry during May 2005. Various points within the records refer to private access. Point 11, in the Charges Register, relates to a private right of way to specified adjacent landowners subject to them contributing to the

maintenance of the way. This right of way was granted to purchasers between 1963 and 1967 as the site was developed, and supports the view that between these dates the right of way was private rather than public.

- 7.5 For further information relating to gating dates and prevention information, as well as information on notices, refer to **Appendix 4 – chart 2**

8. SUMMARY

- 8.1 If Members resolve not to make an Order, a letter ‘advising of decision not to make the Order’ will be sent out to the applicant with carbon copies sent out to supporting applicants. The Applicant has a right to appeal to the Secretary of State against the decision, within 28 days of receiving formal notification of the Council’s decision. A similar letter would be sent out to the Landowner stating that the application had been rejected. A copy of ‘A guide to definitive maps and changes to public rights of way’ (Countryside Agency CA142) will be sent out to the Applicant and the Landowner.
- 8.2 If Members resolve to accept the applicant’s claim, an Order should be made after it being passed to the Chief Solicitor. In this case the objector to the claim – the Landowner of Inglethorpe – would have the right of appeal, to the Secretary of State.
- 8.3 Members are requested to determine, having considered all of the available evidence, whether a public right of way does, or does not, exist along the route shown A-B-C-D-E on **Appendix 1 – Plan 1**. Members should note that a decision must be made, based on the balance of probabilities, whether there is sufficient evidence to suggest that public rights are reasonably alleged to exist or not. **No other factors should be considered.**
- 8.4 The available evidence does not lend support to the claim, that a public right of way exists between points A-B-C-D-E on **Appendix 1 – Plan 1**, attached to this report. The evidence suggests that rights do not exist over the width and route of the path, as claimed, due to the fact that it has not been available for public use for an uninterrupted period of 20 years or more and does not support a claim at common law. Evidence has shown that successive owners of Inglethorpe (the land over which the claimed route runs) have taken strenuous efforts to deny access to the public at large, only giving permissive access to residents of Manor Road. Support for this conclusion is based on the wealth of evidence supplied by the present owner of Inglethorpe and neighbouring residents. Other evidence in the form of maps, documents and photographs show that at no time was there any intention to dedicate this path as a public right of way. Site

visit photographs highlight that the path has had notices – present and past – indicating the private nature of the route/track/lane and the intent to deter general and unpermitted use. These photographs also show where a previous gate was situated, at the southern end of the alleyway – point D on **Appendix 1 – Plan 1**.

8.5 As discussed before Section 53 (3) (c) (i) Wildlife and Countryside Act 1981 has to show that:

S53 (3)(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows -
(i)
that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies ;

In this case this does not follow as there is ample evidence supplied to suggest the contrary.

9. OPTIONS

Two options are available to the Council when determining this issue:

Option 1: If after considering all of the available evidence Members decide that a right of way does not exist, they should resolve that:

- The application for a Definitive Map Modification Order to add the route A-B-C-D-E (on Appendix 1 – Plan 1, attached to this report) to the Definitive Map be refused and that the applicant be advised of their right to appeal to the Secretary of State.

Option 2: If after considering all of the available evidence Members decide that a right of way does exist, they should resolve that:

- The director of Neighbourhood Services be authorised to instruct the Chief Solicitor to make a Definitive Map Modification Order to add a public footpath, along the route A-B-C-D-E (on Appendix 1 – Plan 1, attached to this report) to the Definitive Map. The path width would subsequently be recorded as being a minimum of 1.3 metres, widening to 3.0 metres at its widest point, with a limitation of a chicane being present between points D-E on **Appendix 1 – Plan 1**, attached to this report.

10 RECOMMENDATIONS

Members are recommended:

1. Not to accept the evidence in support of the claim
2. To instruct Parks and Countryside Section, Adult and Community Services Department to advise the Applicant of their right to appeal to the Secretary of State, consistent with option 1 above.

CONTACT OFFICER:

Chris Scaife, Countryside Access Officer, Adult and Community Services Department

Background Papers

Bundle of Evidence – Application to add a Public Footpath between Elwick Road and Manor Road, to the Definitive Map Schedule 14, Wildlife and Countryside Act 1981.

This bundle of evidence/set of background papers is available in the Members Library

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

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

(Bengali)

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

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

(Hindi)

ئەم بەلگەىە ھەروەھا بە زمانەکانى کە، بە چاپى درشت و بە شىرتى تەسجىل دەس دەکەوێت (Kurdish)

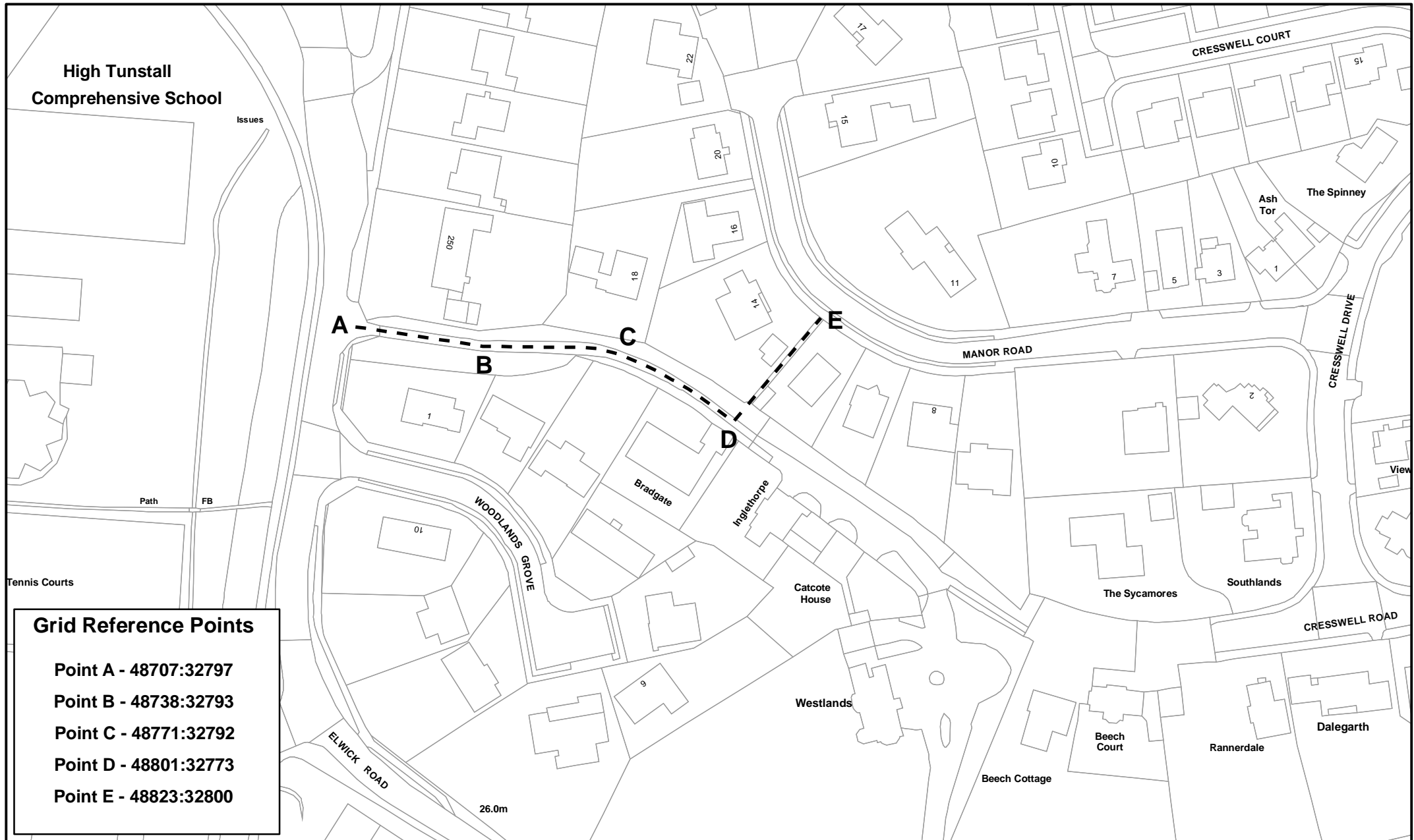
本文件也可应要求，制作成其它语文或特大字体版本，也可制作成录音带。(Mandarin)

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

(Punjabi)

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

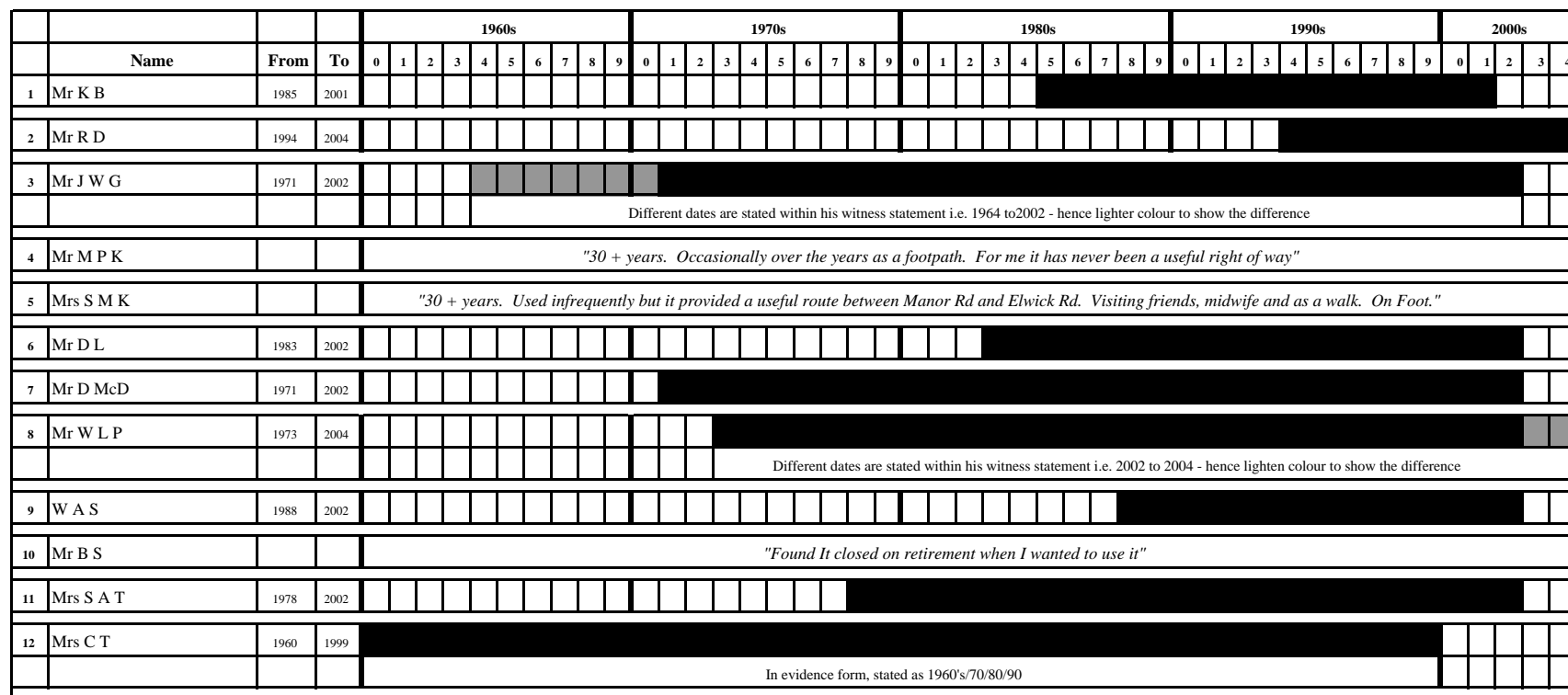
Appendix 1 - Plan 1 - Application to add a Public Footpath between Elwick Road and Manor Road





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Sub Title: Elwick Rd to Manor Rd DMMO
Scale: 1:1250
Date: 24th April 2006
Drawn By: Adult & Community Services Dept

Hartlepool Borough Council
 Parks and Countryside
 Suite 8, Municipal Buildings
 Church Square
 Hartlepool, TS24 7EQ
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Notes

- 1 All full names have been removed, with initials being substituted, for identification.
- 2 The list of names corresponds to the supporters of the application, who filled in public rights of way evidence forms.
- 3 The to/from columns indicate the period of time, stated by each user, of use of the claimed route.
- 4  on the chart visualises the same information as per note 2.
- 5  on the chart corresponds to differing information, provided by a user, at a later date.
- 6 Where no exact dating information has been provided, the comment written by the user has been inserted for clarification.

APPENDIX 3 - INVESTIGATION REPORT

DEFINITIVE MAP MODIFICATION ORDER (DMMO) – ELWICK ROAD TO MANOR ROAD

Glossary

Definitive Map and Statement

The Council holds the legal record of public rights of way. This is known as the Definitive Map and Statement and it is evidence in law of the public rights recorded on it.

The Definitive Map is the minimum record of public rights of way. There may also exist additional public rights of way which have not yet been recorded on the Definitive Map, or there may be rights which have been incorrectly recorded.

The Definitive Statement is a description of each of the routes recorded on the map and includes any restrictions to their use.

The Definitive Map is legally conclusive proof of the existence of the public rights of way recorded on it.

D.M.M.O.

(Definitive Map Modification Order)

These are legal orders made, through the Wildlife and Countryside Act 1981, to modify the definitive map and statement to include public rights of way that have been proven to exist but have not previously been recorded on the definitive map.

Public Rights of Way

These are ways over which all members of the public have a right of passage. Within the Borough of Hartlepool there are various categories of public rights of way. These are:

Footpath - over which the public have a right on foot only

Bridleway - over which the public have a right on foot, bicycle and on horseback. Cyclists were granted the right to use bridleways, in 1968.

BOAT - (Byway Open to All Traffic). Over which the public have a right for all the above and for vehicular traffic. A BOAT is classed as a Carriageway.

On Public Footpaths users are allowed 'Usual Accompaniments'. These consist of: Dogs (on leads), Pushchairs and Wheelchairs. This is not a comprehensive list; however bicycles are not a 'usual accompaniment'.

Permissive Path

This is a path which the landowner permits the public to use, with the intention that it should not become a public right of way. As such, it is not in general subject to rights of way law. The landowner can put restriction as to who can use it e.g. only walkers, no mechanically propelled vehicles etc. The permission for use of this type of path can be removed, by the landowner, at any time he or she wishes. As it is permissive, there will need to be either signage, to explain usage and permission or the landowner will have to close the path for a single 24 hour period every year.

REPORT

The investigation report is a factual account of the application and the subsequent investigation up to this point. It should cover any evidence provided and/or discovered that is relevant to the existence and status of the route.

On 25th February 2005 Parks and countryside section received a request for an application pack, to modify the definitive map. The pack was requested by a local resident.

Parks and Countryside received the completed application on 23rd March 2005. Schedule 14 of the Wildlife and Countryside Act 1981 enables any person or organisation to apply to the surveying authority, for an Order to modify the Definitive Map and Statement. Accompanying the claim was user evidence forms, completed by people who stated that they had used the way in question, between specific dates and describing the reason why the way was used – e.g. recreation, short-cut etc. Each User Evidence Form was supported by a map, showing the route that the individual had used.

Parks and Countryside's Countryside Access Officer has to look at all the evidence supplied and research for more evidence, if necessary, to determine whether there is sufficient evidence to support the claim or not. This determination should be completed within 12 months of receipt of the application form.

Since 23rd March 2005, an investigation has been carried out to check all evidence, wherever possible, that is relevant in showing the existence and status or non-existence of the route. This has included checking the supplied user evidence, to see if there were any inconsistencies. Any such were then rechecked with the individual who supplied the information.

On the 14th April 2005, Parks and Countryside sent out a letter to the landowner, over which the route of the claimed way ran. The letter set out the DMMO procedure and enclosed copies of the relevant application forms (as prescribed in law).

The following sections are the collection of documentary information that is relevant to the final determination of the application. The first section deals with the application and information collated from the user evidence forms

User Evidence

12 user evidence forms were filled in by individual members of the public. Each one recorded any relevant information that could be used in making the determination of the application. There was varying usage periods recorded.

1 x 11 years

1 x 17 years

1 x 20 years (no specific dates)

2 x 23 years

1 x 25 years

2 x 30 years

3 x 32 years

1 x 40 years

11 users claimed the path as a footpath status and one user didn't claim a status. All the users regarded it as a public right of way

There were differing ranges of when the usage occurred from and to.

One said until 1999

One until 2001

One until 2002

Two until 2004

One from 1960 until 2004

Three had no specific dates recorded but stated that they had used the path for either 20 plus or 30 plus years

The type of usage was either on foot or by horse. 11 users claimed foot usage and one user claimed using the path whilst riding a horse.

When asked about the width of the claimed path, the answers were again varied.

1 x 3 feet to 4 feet

6 x 4 feet to 9 feet

1 x 1.3 metres to 3 metres (4 feet 3 inches to 9 feet 10 inches)

1 x 4 feet to 10 feet

1 x 5 feet upwards

1 x 5 feet to 6 feet

1 x 9 feet

There was a diverse range of answers with regards where the users were going from and to.

Eight said that it was from Manor Road to Elwick Road

Two used the path to go to Park Drive Cricket Club

One used the route for a walk

and one used it to get to Oakengates, Cresswell Drive

The reasons for using it were stated as:

- 2 x walk
- 2 x daily walk
- 2 x recreational, social and pleasure
- 1 x to ride to Elwick and Dalton Piercy
- 2 x as a short cut
- 1 x visiting friends
- 1 x for walks and to take the children to school
- 1 x as an alternative route on regular walks

All of the users said that the path had always run over the same route.

When asked about Barriers (stiles gates etc), again the answers were of a varying range.

- 4 x no barriers
- 3 x chicane/turnstile
- 1 x cycle barrier
- 1 x no answer
- 1 x not initially but yes in recent years
- 1 x the Council erected a metal pedestrian only gateway
- 1 x no memory of barriers

The next three parts of the evidence supplied is to do with notices and what was written on them.

- 3 x said that there were no notices
- 1 x said not known
- 1 x had no memory of any notices
- 2 x said that there was one in 2002
- 1 x said there was a notice
- 4 x gave no answer

When asked whether the notices said anything about ' private' , ' no road' , ' no thoroughfare' or ' trespassers will be prosecuted' , there were some differing replies.

- 5 x said no
- 5 x said ' public footpath sign
- 1 x said private drive
- 1 x said closure notice from 2002

Further information regarding what was said on notices is as follows:

- 2 x Public Footpath
- 2 x Path to be closed and locked
- 1 x path to be closed

All of the users said that they had not been stopped or turned away when using the way or path. None had heard of anyone being turned away or stopped when using the way. All of the users said that they had not asked for permission to walk along the route and all said that they had not been told that the way was not public.

As there has been mention made of locked gates being used, the question was asked of the users as to was there any gates along the route. The answers are as shown below:

7 x there was a gate from 2002 onwards

2 x there was no gate until recently

1 x said there was no gate until three to four years ago

2 x said there was no gate

Finally the users were asked if they had any extra relevant information regarding the route. They answered as follows:

1 x not used much

1 x not a useful right of way

1 x it is a useful right of way

1 x their children used it to go to school

4 x complained to the Hartlepool Mail and the Council did not respond

4 x had no extra information

Objectors to the daim

All evidence supplied was in the form of letters and minutes. Only relevant extracts from these documents are quoted below and only discuss information that relates to the right of way and whether it is public or private

1. **Letter**, 14/02/64, from solicitors to a previous owner of a Manor Road property.
“ a private right of way is to be provided at the southern most extremity of the site thereby reinforcing what the Borough Engineer has himself indicated, namely that the Local Authority have no rights and no proposals in relation to the Right of Way”
2. **Minutes of meeting**, 12/06/97, held at Tilley Bailey and Irvine.
Point 4 mentions “ The private right of way” .
Point 5 talks about Anti Social Behaviour on 19/05/97 on the Private Right of Way and that the Police were called but the youths had been dispersed.
Point 6 mentions 10 years ago a gate was situated “ at the end of the path” .
Residents requested a replacement “ to stop those people who do not have a right of way, using the path as a short cut”
Point 9 “ problems of vandalism has worsened over the last 10 years (since the gate was taken down)” .
3. **Letter**, 31/05/05, from a resident (R) whose property backs onto the lane.
A former owner of Inglethorpe (Ia) (Inglethorpe property is the land over which the claimed route runs) stopped R from creating an access from R’ s property onto the lane. Ia showed R a legal document of ownership (including the lane), notices – ‘ Private’ and ‘ No Thoroughfare’ and gates at both ends of the lane.
The next Inglethorpe owner (Ib) did their best to stop people from using the lane by using their car and turning people away .

4. **Letter**, 06/06/05, from present owner of Inglethorpe.
“ After contacting the Land Registry, *Solicitor’s name*) informed us it was a private right of way belonging to Inglethorpe” .
“ The gate was erected in April 2000 and residents of Manor Road were given a key for the gate.” .
5. **Letter**, 30/03/99, Tilley Bailey and Irvine.
Section 4 “ No knowledge of approaches to Hartlepool Borough Council to stop the public from using the track marked red on foot, although they did install bollards to stop it being used by motorbikes and horses. There has been no physical attempt to stop the public using the pathway, even though the public do not have a right to use it as the right is limited to residents of certain houses in Manor Road.” .
6. **Letter**, 17/05/05, from Manor Road resident.
Section 1 “ ...in September 1987 part of the sales agreement was that we, together with certain other householders, had access to Elwick Road via the pathway and Private Road. We were given a key at this time from the gate on the southern end of the pathway.” .
Section 2 “ We were informed that this gate had been in place since the late sixties in Manor Road.” .
Section 4 “ This gate was in place until some time in 1988.” .
Part E “ by 1995, the use of motorcycles and horses being ridden through the pathway meant residents contributed to the erection of chicane fencing to stop the situations. After all, in the house deeds it categorically stated that this was a footpath.” .
Section 5 “ ...in 2000...and erected a gate after an absence of 12 years.” .
7. **Minutes of a meeting**, 22/10/96, at Tilley Bailey and Irvine – a solicitors meeting
“ The Council had been approached in 1995 to install some chicane fencing at one end of the path which had been financed by 18 residents each contributing £13.89.” .
8. **Letter**, 23/05/05, from a Manor Road Resident to the present owner of Inglethorpe. Resident and wife moved into the property in October 1994
“ Between that date and 2000 there were no gates fitted at either end of the pathway.” .
“ Since the gates were re-fitted in 2000, tranquillity has been restored to Manor Road.” .
“ We were aware that the footpath was private and previously only residents of Manor Road were provided with keys to the gate, as advised by the previous owner of our property...” .
“ *previous owner’s name*) moved into the Manor Road in 1987 and at that time gates were fitted and locked.” .

“ My son, who attended High Tunstall between 1983-85, informs me that school children used the path at the time despite there being a gate fitted and when observed doing so were usually stopped by residents.” .

9. **Letter**, 18/04/05, from neighbouring property to Inglethorpe. This resident moved into his property in 20/04/00.
“ At this time you (Inglethorpe) informed me, that there had been a gate erected to prevent anti-social behaviour occurring on the access way to the detriment of ... *(list of 3 properties along the lane)*. You subsequently supplied me with the appropriate key to access Manor Road.” .
“ From the above date I have resided at ... *(property name)* and the gate has been permanently locked, with access only by the use of a key.” .
10. **Letter**, 17/05/05, from a resident of Manor Road.
“ This application affects us directly since the path in question is noted on our Land Registry Deed as a Private Right of Way, with access via the path to the landowners and to the residents of certain properties in Manor Road.
In 1983, this access was via a locked gate at the south end of the path, (the house owners in Manor Road all having a key).
Notices indicating this was a ‘ Private Right of Way’ and ‘ inadmissible to the public’ were posted in Manor Road, at the north end of the path, in the garden of the owner of 14 Manor Road which adjoins the path. Also a notice was posted at the west end of the path on to Elwick Road (opposite High Tunstall School).
Further notices were posted in Manor Road.
This situation prevailed until 1987, when firstly the lock to the gate was broken and the gate itself was vandalised.” .
“ ...and in a meeting with Manor Road residents, they immediately agreed to have a new gate fitted at the north end of the path, (where it comes out on Manor Road).” .
“ ...the Police and the Teaching Staff at High Tunstall School were in full agreement that this would curb the actions of trespassers and unruly children.
This gate which is locked (and with keys for Manor Road residents), was fitted by *(Landowners name)* in the year 2000.” .
11. **Letter**, 17/05/05, from resident of Manor Road, who moved into Manor Road in July 2003.
“ The fact that our deeds mentioned that access through the cut from this private road to Manor Road was restricted to a few specific key holders...” .
12. **Statement**, 07/06/05, of a previous owner of Inglethorpe.
“ I the undersigned hereby confirm that I lived in Inglethorpe for a number of years until 1987. During this time the pathway leading from Inglethorpe Drive to Manor Road was closed by a gate at the bottom end of the path and there were signs at both ends of the path that it was a PRIVATE path. The path was always closed when I was in residence and it never has been a public right of way.” .

13. **Letter**, 16/05/05, from a resident of Manor Road.
“ In 1978 my late husband and I purchased *(property name)*, Manor Road from *(previous owner's name)*, the first owner of this property, our solicitor *(solicitor's name)* explained to us in great detail, that the private road was accessible to the residents in the cul-de-sac (Manor Road) by use of a key to the gate. This key was provided by the then owner *(of Inglethorpe)*, details of entry etc is recorded in our deeds.” .
“ All went well until the gate was vandalised in the late eighties, this was very distressing for both the owner of the private road and the residents of Manor Road.” .
“ The next thing that happened motorbikes found their way through, that was why the barriers were put in place, and finally the gate directly on the Manor road entrance.” .
14. **Statement**, 16/05/05, from resident of Manor Road.
“ ...we the undersigned hereby confirm that the pathway leading from Manor Road to the Inglethorpe Drive is indicated our house deeds as being a PRIVATE right of way. We can confirm that it had the relevant signs of privacy in 1987. Prior to 1987 the path was gated and the previous owner *(of Inglethorpe)* can confirm this statement.
In 1987 the gate was vandalised...” .
15. **Letter**, 12/06/05, from a resident of Manor Road.
Point 4 “ 1962 ...saw building of all the now existing houses by a development company consisting of a builder, a solicitor and a house decorator. The house numbered no 11 was occupied by the parents of one of the directors and because the lady of the house was elderly, care was taken to include a pathway giving her the facility of reaching Elwick Road, thus avoiding the rather steep climb up Manor Road. In fairness to the other ‘ new builds’ this pathway was permitted to the new occupants, but not to the original houses in the plateau part of Manor Road.” .
Section 5 “ The passage leads through to the carriageway *(Inglethorpe Drive)* and such carriage way is in the ownership of one of the semi-detached houses *(Inglethorpe)*. Such PASSAGE of access has been controlled initially as a matter of honour and thence by a gate which hindered or stopped access for bicycles, and alternatively (unless vandalised from time to time) by a padlocked gate. However padlocking was reinforced eventually by *(name of a previous owner of Inglethorpe)*... now deceased ...until he vacated his house in 1988 ...some seventeen years ago.” .
Section 6 “ In April 2000 or thereabouts a new owner of the semi-detached carriageway house produced a new and efficient locking system which endures to present date.” .
16. **Letter**, 22/06/05, from solicitors to present owner of Inglethorpe.
“ The register Entries confirm beyond doubt that this is a private right of way reserved for those persons listed in the Third Schedule to Entry No 11 (and their successors in title).” .

17. **File Note**, 12/09/05 from a conversation between the Countryside Access Officer and a previous owner of Inglethorpe.
“ *previous owner’s name*) stated that the alley had been gated all the time that her husband and she were in residence at Inglethorpe. A year after moving into Inglethorpe her husband added the lock to the gate as well as raising the height of the gate, to deter children from climbing over it. Some keys were issued out to some of the residents in Manor Road.
(previous owner’s name) said that the original reason that the alley was created was to assist an old lady, who lived in Manor Road, so that she could get to the bus stops in Elwick Road, without having to take a very long detour.
(previous owner’s name) insisted that the route was always a private right of way and not, as claimed, a public right of way.” .

Hartlepool Borough Council – documents researched and or Received

A short summary of the documents follows, with the documents themselves being copies extracted from the originals or electronic versions of maps copies that are held in either Archives in County hall, Durham or Durham University Library, Durham or at Hartlepool Borough Council (HBC) Offices.

The copy documents will be attached at the end of the Report.

1. Copies of letters sent from Highways Section HBC, 10/05/05
- regarding the correspondence surrounding the erection of the chicane, situated at the south end of the ‘ alley’ between the properties of 12 and 14 Manor Road. The cost was £250.00 and was born by 18 residents of Manor road, each paying £13.89 ($£13.89 \times 18 = £250.02$) – refer to extracts from minutes of a meeting at Tilley Bailey and Irvine (solicitors meeting), 22/10/96, (see objectors extract 7)
2. 16/05/05, Official Copies Request
Copy of the Land Registry documents (CE15136) relating to the property and land of ‘ Inglethorpe’ , Elwick Road, Hartlepool, TS26 0EG.
3. May 2005 - Maps
All of this collection of maps has either the claimed route marked out in a red dashed line or has the area of the claimed route enclosed in a red square.
 - (a) Ordnance Survey Maps Series 1, 2, 3, 4.
 - (b) Ordnance Survey Maps Pre Definitive Map 1952
 - (c) Ordnance Survey Maps Definitive Map 1952
 - (d) Ordnance Survey Maps Present day base map
 - (e) Based on Ordnance Survey Maps – Property Services
 - (a) Series 1 – Pre 1895
 - Series 2 – 1897
 - Series 3 – 1916 to 1922
 - Series 4 – 1938 to 1940
 - (b) Extract from the Parish Survey Map (Pre Definitive Map) 1952

- (c) Extract from the first Definitive Map 1952
 - (d) Extract from the base map data 2005 used by the HBC GIS (Geographical system) software.
 - (e) Map showing the adopted highways shown in the lighter of the two shades of green.
4. July 2005, from the present owner of Inglethorpe.
Office Copy Entry of Register and Plan relating to Inglethorpe – same as document 2.
 5. 02/08/05, Maps from Highways Section HBC
OS Series 1 to 4 (see documents 3)
OS Map – 1990
OS Base Data map – 2005 (see documents 3)
 6. August 2005
Office Copy Entries of Land Registry Property Details for both 12 and 14 Manor Road.
12 Manor Road – CE 133905
14 Manor Road – CE 126029
Point 2, 2nd para “ ...TOGETHER ALSO with a right of way (in common with all others having the like right) at all times on foot only over and along that part of the private footpath and roadway leading to Elwick Road as the same is more particularly indicated in blue on the said plan ...” .
Point 2 3rd para “ Note: The footpath coloured in blue referred to is the footpath between numbers 12 and 14 Manor road.” .
 7. August 2005
An Agreement as mentioned in the oldest letter, dated 29/11/93, which is part of the documents 1.
A map and document relating to where the site numbers, mentioned in document 2 (CE 15136), Third Schedule, page 5, of the Manor Road development (1960’ s) linked to the actual properties and addresses of the present day manor road. The map is a photocopy, of the map within the agreement (document 7), which has been annotated with extra information, coloured red, green and blue.
 8. 27/10/05, file note
Rights of Way Historical Research

County Hall Archives and University Library - Durham

As part of the research to look for evidence with regards to the claimed route, I looked at the Tithe Map and Apportionment of Throston (of Hart) 1841. This was available at the University Library. There was no evidence of any path, way, footway, footpath, bridlepath, track, lane or road for the area covering the route claimed - Elwick Road to Manor Road. Only fields were evident on the claimed

route and an area called Throston Carrs (boggy area of land) to the east of the claimed route.

No Enclosure Maps were available, at the University Library or County Hall Archives, for the area covering the claimed route.
Countryside Access Officer

The Countryside Access Officer was not able to obtain a copy of the relevant Tithe Map at this time. It is hoped that digital images of the Tithe Map will become available in the future.


All the above evidence, from the users, objectors and HBC will assist the Council in making the determination as to the existence of the claimed way. Once comments etc have been received a meeting between the Countryside Access Officer and the Legal Officer will take place to move towards recommendation on a decision. If comments, from this report, have been received that contain further evidence, that may affect the decision, then this new evidence will be circulated to those who have received this report and a specified period of time will be allowed for responses to be given.


A final meeting would then be held by the above mentioned officers to consider and agree upon what the recommendation(s) for determination will be.


1 All full names have been removed, with initials substituted, for identification.

2 The **Type** column shows whether the person is a supporter - SUEP or an opposer - O/SL of the claim/application.

3 The **No.** column provides a simple reference number system for referencing information, on each evidence provider, between both pages of this appendix.
e.g. No. 1 - Mr KB, who lives at 18 Warkworth Drive, provided information stating that a locked gate appeared 2003 and said that a 'Public footpath sign' was evident.

4  Denotes possible information on gating dates - hearsay

5  Denotes when the gate had a lock added to it

6  Denotes dates of gating - supported by information

7 * Mr D states that the gate at the southern end was in place until 1988, however since he only moved in in 1987, he cannot state specifically that the gate was there from

8 ** Mr & Mrs A didn't move in until 1994 and so cannot have known that the gate was there between 1983 and 1987

9 *** There does not seem to be any direct statement from Mr & Mrs A as to when the gate went in, although they did confirm that it was there in 1987

No: 1
Number: H/2006/0383
Applicant: Mr Gillies 28 COURAGEOUS CLOSE HARTLEPOOL
 TS25 1EU
Agent: 28 COURAGEOUS CLOSE HARTLEPOOL TS25 1EU
Date valid: 01/06/2006
Development: Erection of a front boundary fence (0.9m high)
Location: 28 COURAGEOUS CLOSE HARTLEPOOL
 HARTLEPOOL

The Application and Site

1.1 The application site is a modern detached dwellinghouse with an integral garage. The front garden area is predominately block paved.

1.2 The application is to erect a 0.9m high picket style fence to the side at the front of the property between 28 and 29 Courageous Close.

Publicity

1.3 The application has been advertised by way of neighbour letters (2). To date, there has been 1 letter of no objection.

The period for publicity has expired.

Consultations

1.4 The following consultation replies have been received:

Traffic & Transport – Awaited informally no objections

Planning Policy

1.5 The following policies in the adopted Hartlepool Local Plan 1994 and the emerging Hartlepool Local Plan 2005 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.

Planning Considerations

1.6 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan and the visual impact upon the area.

1.7 Permitted development rights have been removed from this development for the erection of fences, walls or any other means of enclosure to protect the visual amenity of the area.

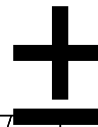
1.8 There is an ongoing enforcement for the removal of a front and side wall at 26 Courageous Close.

1.9 Due to the open plan condition being attached to this development site it would be normal practise to seek to resist fences, walls and other means of enclosure.

1.10 The applicant and Ward Councillor have referred to a number of fences that have been erected within the immediate area of this property. These are currently under investigation.

1.11 An update report with a recommendation will be brought to the meeting.

RECOMMENDATION – Update to follow.



28 Courageous Close



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H-2006-0383	REV

No: 2
Number: H/2006/0420
Applicant: Ogden Walker Properties Ltd
Agent: Planning Prospects Ltd 1 Bromhall Business Centre
 Bromhall Lane Worcester WR5 2NT
Date valid: 25/05/2006
Development: Erection of 3 retail units including take away use (Classes A1 and A5) and 1 veterinary unit (Class D1) and associated car parking servicing and landscaping
Location: Belle Vue Service Station BELLE VUE WAY
 HARTLEPOOL

The Application and Site

2.1 Detailed planning permission is sought for the demolition of the redundant petrol filling station and associated structures and their replacement with a new single storey building containing 4 commercial units. An ATM machine would be incorporated on the unit adjacent to Brenda Road.

2.2 The site comprises an irregularly shaped roughly triangular area.

2.3 It is proposed that the units which would face onto Belle Vue Way would accommodate retailing, hot food takeaway and a veterinary uses. The proposed accommodation schedule would be as follows:-

Unit 1 – 3400 square feet – Retail unit - 7 am - 11pm

Unit 2 – 1700 square feet – Veterinary surgery - 8 am - 8 pm

Unit 3 - 1000 square feet - Retail unit or hot food takeaway - 7 am - 11pm

Unit 4 - 1000 square feet - Retail unit or hot food takeaway - 7 am - 11pm

2.4 The applicant is seeking flexibility within the scheme to be able to market units 3 and 4 for either retail or hot food takeaway use, but would only require one hot food takeaway unit at any one time.

2.5 The scheme would incorporate provision for 22 car parking spaces together with space to park for vehicles servicing the units.

2.6 Access to and egress from the site would continue to be available off Belle Vue Way Non commercial traffic would also be able to leave the site via Stanley Road although there would be no access to the site from this junction. Larger commercial vehicle could only exit the site onto Belle Vue Way. Such vehicles would be prohibited from using Stanley Road due to the imposition of a height restriction barrier. At present the Stanley Road junction to the site is closed to traffic

2.7 The existing access to the site from Brenda Road would be closed.

Publicity

2.8 The application has been advertised by way of neighbour letters (15). No objections to date but petition against the scheme is anticipated from the Guinness Trust.

2.9 The concerns likely to be raised are:

- 1 That whilst there is no objection to the development in principle there is concern that the use of Stanley Road will cause a rat run effect through the adjacent residential areas to the north i.e. Faulder Walk and Borrowdale Street to the detriment of public safety.

2.10 A letter has been received from a nearby commercial operator who has objected on the basis that the proposed development will obstruct advertisement signage.

The period for publicity expires after the meeting

Copy letters G

Consultations

2.11 The following consultation replies have been received:

Highway Engineer – Raises no objection providing the Stanley Road junction was to be egress only for non-industrial traffic. There would be a slight increase in traffic along Faulder Walk once the units come into operation. However I do not think it will become a rat run and most motorists will still use Brenda Road. If it does become a problem, traffic calming measures could be introduced in Faulder Walk to deter motorists.

At present, people from the Belle Vue area, who used the former garage, could return the same route by using the Brenda Road entrance. Removing the Stanley Road junction, will cause people from Belle Vue area to travel further, as they would not be able to turn right on Belle Vue Way or they would have to carry out a u-turn on Belle Vue Way at Tomlinson Road junction, which could have highway safety implications.

Head of Public Protection – No objection subject to condition to control ventilation / fume extraction arrangements.

Engineering Consultancy – Recommend the imposition of a condition to safeguard against contamination should any be detected.

Northumbrian Water – Comments awaited

Planning Policy

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

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

Com13: States that industrial, business, leisure and other commercial development will not be permitted in residential areas unless the criteria set out in the policy relating to amenity, design, scale and impact and appropriate servicing and parking requirements are met and provided they accord with the provisions of Com8, Com9 and Rec14.

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

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

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

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.

Planning Considerations

2.13 The main issues for consideration in this case are compliance with relevant policies in the development plan, highway safety matters, visual and residential amenity matters.

Retail planning policy

2.14 Policy Com 8 of the approved Local Plan states that retail proposals over 500 square metres located outside the primary shopping area will be required to demonstrate need, to justify appropriate scale and to demonstrate that a sequential approach has been followed.

2.15 The proposed level of retail floorspace would not exceed 500 square metres. It is accepted that this amounts to a relatively small level of provision that would be aimed at serving local need.

Highway safety

2.16 When the site operated as a petrol filling station, traffic would both access the site from and egress onto Belle Vue Way. This arrangement would continue to operate with respect to the proposed development. The level of traffic use is likely to be much less than when the petrol station was operational.

2.17 If the Stanley Road junction was to be re-opened to provide unrestricted access and egress it would lead to Stanley Road being used by commercial vehicles and potentially to the opening up of a rat run for Brenda Road traffic seeking a short cut onto Belle Vue Way. The proposed access to Stanley Road could be conditioned to incorporate appropriate traffic barriers and traffic inhibitor in order to overcome this concern.

2.18 It is not considered necessary to prevent non-commercial traffic from leaving the site via Stanley despite the likely objection from the Guinness Trust. The highway engineer accepts that there may be a small increase in traffic along Faulder Walk once the units come into operation. He considers that it would not become a problem however should this be the case traffic calming measures could be introduced in Faulder Walk to deter motorists.

2.19 The engineer considers that maintaining closure of the egress onto Stanley Road would inconvenience residents living in the Belle Vue Way area as they would

need to take a more circuitous return journey possibly to the detriment of highway safety.

2.20 Notwithstanding the above it is considered that the localised scale of the proposed facilities means that a large number of visits to the site will be on foot and also that there would be a reduction in traffic compared to the use of the site as a petrol filling station.

2.21 The highway engineer would be satisfied with the proposed arrangement and considers that the provision of 22 spaces to serve the development would be satisfactory.

Visual amenity

2.22 The visual appearance of the former petrol filling station is gradually deteriorating characterised by various unsightly bulky redundant structures.

2.23 The proposed units would be flat roofed and would incorporate render and timber cladding to the various elevations. The front elevation of the units would have a staggered profile to add interest to the appearance of the building. Discussions are continuing about the final detailing.

2.24 Landscaping measures would also be incorporated to enhance the appearance of the site

Residential amenity

2.25 The application is for the incorporation of only one hot food takeaway within the development at any one time. The site is considered to be sufficiently removed from the nearest residential properties on Brenda Road and Bowness Close. The front entrance to the units would face towards Belle Vue Way and therefore away from the direction of residential properties to the north. Furthermore there would also be an element of background noise associated with traffic on Belle Vue Way.

2.26 It is proposed to restrict the opening hours to no later than 8 o'clock in the case of the vets surgery and 11 p.m in the case of the retail and hot food uses. This is considered sufficient to control any disturbance that might potentially arise from the site.

2.27 Taking these factors into account it is considered that residential amenity will not be adversely affected as a result of the proposed development.

RECOMMENDATION – Approve subject to the following condition(s) and no further adverse comments being received within the publicity / consultation period.

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before

the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.

In the interests of visual amenity.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
4. The development hereby approved shall be carried out in accordance with the amended plan(s) received on 19 June 2006, unless otherwise agreed in writing by the Local Planning Authority
For the avoidance of doubt
5. The junction of the site with Stanley Road shall be for the egress of non commercial related traffic only. There shall be no access to the site whatsoever from this junction.
In the interests of highway safety.
6. Prior to the development hereby approved being brought into use a height restriction barrier shall be erected at the junction of the site with Stanley Road in accordance with details to be previously agreed with the Local Planning Authority.
In order to prevent access to and egress from the site being available to larger commercial vehicles in the interests of highway safety.
7. Prior to the development hereby approved being brought into use a traffic inhibitor shall be constructed at the junction of the site with Stanley Road in accordance with details to be previously agreed with the Local Planning Authority.
In order to prevent access to the site being available to vehicles in the interests of highway safety.
8. Provision for cycle parking shall be made within the site in accordance with details to be previously agreed by the Local Planning Authority.
In order to promote access to the site by means other than the private car
9. The floor space of the respective units shall remain as approved. There shall be no amalgamation of floor space associated with any of the units.
In the interests of maintaining satisfactory parking provision within the site and in order to protect the vitality of the town centre.
10. The use of the units hereby approved shall be restricted as follows:-
Unit 1 - A1 retail
Unit 2 - D1 veterinary surgery
Unit 3 - A1 retail or A5 hot food takeaway subject to condition 14 below
Unit 4 - A1 retail or A5 hot food takeaway subject to condition 14 below
In the interests of residential amenity
11. Egress from the site onto Belle Vue Way shall be available to all vehicles at all times.

In order to prevent overdependence on the Stanley Road egress in the interests of highway safety.

12. The opening hours of the proposed units shall be restricted as follows:-

Unit 1 - 7 am - 11pm

Unit 2 - 8 am - 8 pm

Unit 3 - 7 am - 11pm

Unit 4 - 7 am - 11pm

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

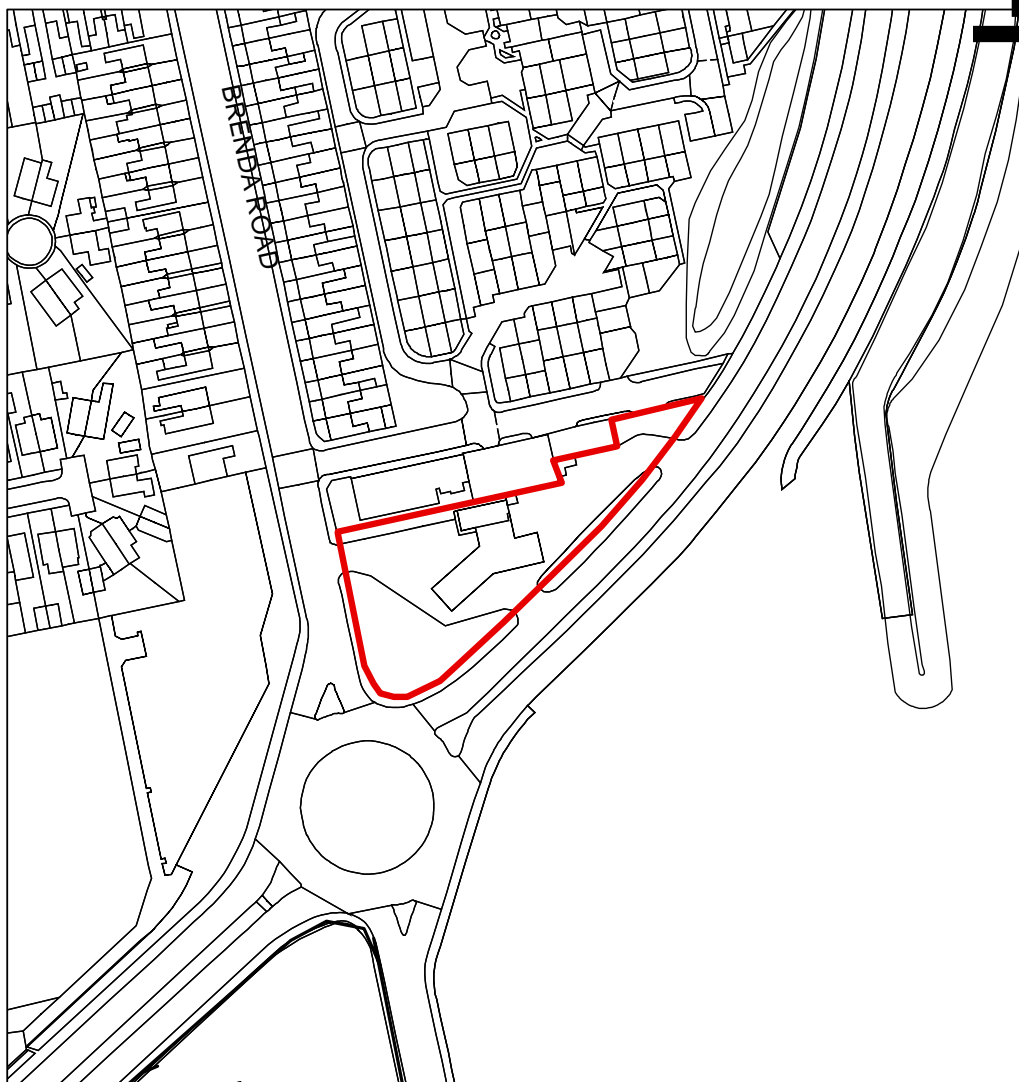
13. No A5 use shall be commenced until there have been submitted to and approved in writing by the Local Planning Authority plans and details for ventilation filtration and fume extraction equipment to reduce cooking smells, and all approved items have been installed. Thereafter, the approved scheme 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.

14. Of the two units approved for A5 use, i.e units 3 and 4 only one unit shall be so used at any one time.

In the interests of residential amenity and highway safety

Belle Vue Service Station



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO	REV

No: 3
Number: H/2006/0391
Applicant: The Dunston Partnership C/O 49 Wynyard Road
 Hartlepool
Agent: Business Interiors Group 73 Church Street
 HARTLEPOOL TS24 7DN
Date valid: 19/05/2006
Development: Removal of planning condition to allow an external eating
 and drinking area
Location: GOLDEN LION DUNSTON ROAD HARTLEPOOL
 HARTLEPOOL

The Application and Site

3.1 Permission is sought to vary planning permission to allow for the creation of an external drinking area on part of the premises. Permission was originally granted for the development of the pub in July 1996 notwithstanding considerable opposition to the proposal from local residents. The proposed external drinking area would be located in the southwestern corner of the site adjacent to Dunston Road.

Publicity

3.2 The application has been advertised by way of neighbour letters (15) and by a site notice. To date, there have been 15 letters objection to the proposal.

3.3 The concerns raised are:

1. Too close to housing. Noise disturbance will be unacceptable. It will be harmful to enjoyment of gardens and ability to sleep.
2. There is a need for the originally agreed acoustic fence to be put in place.
3. People are already drinking outside. It will lead to increase anti social behaviour and foul language.
4. Music played in the pub will be heard outside every time the doors are opened.
5. Children at the pub would be more likely to run out onto the road.
6. If garden heaters are installed people would continue to sit outside and cause disturbance later into the year.

Copy letters E

The period for publicity expires after the meeting.

Consultations

3.4 The following consultation replies have been received:

Head of Public Protection – When the pub first opened a number of complaints were received about disturbance to residents. Should this application be approved it should be for a temporary period only to allow for monitoring.

Access Group – Request access statement.

Head of Technical Services – No objections providing no loss of car parking.

Planning Policy

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

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

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

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

Planning Considerations

3.6 The main consideration in this case is whether provision for external drinking would cause an adverse impact on the amenities of nearby residents by virtue of noise and antisocial behaviour.

3.7 It is apparent that complaints have previously been made by local residents with respect to disturbance in the past.

3.8 However the proposed area is a relatively small portion of the site. The nearest properties are situated on Dunston Road and Bushton Close some 20 meters and 15 meters away respectively. There is the possibility of fencing the area to prevent clients encroaching nearer to property.

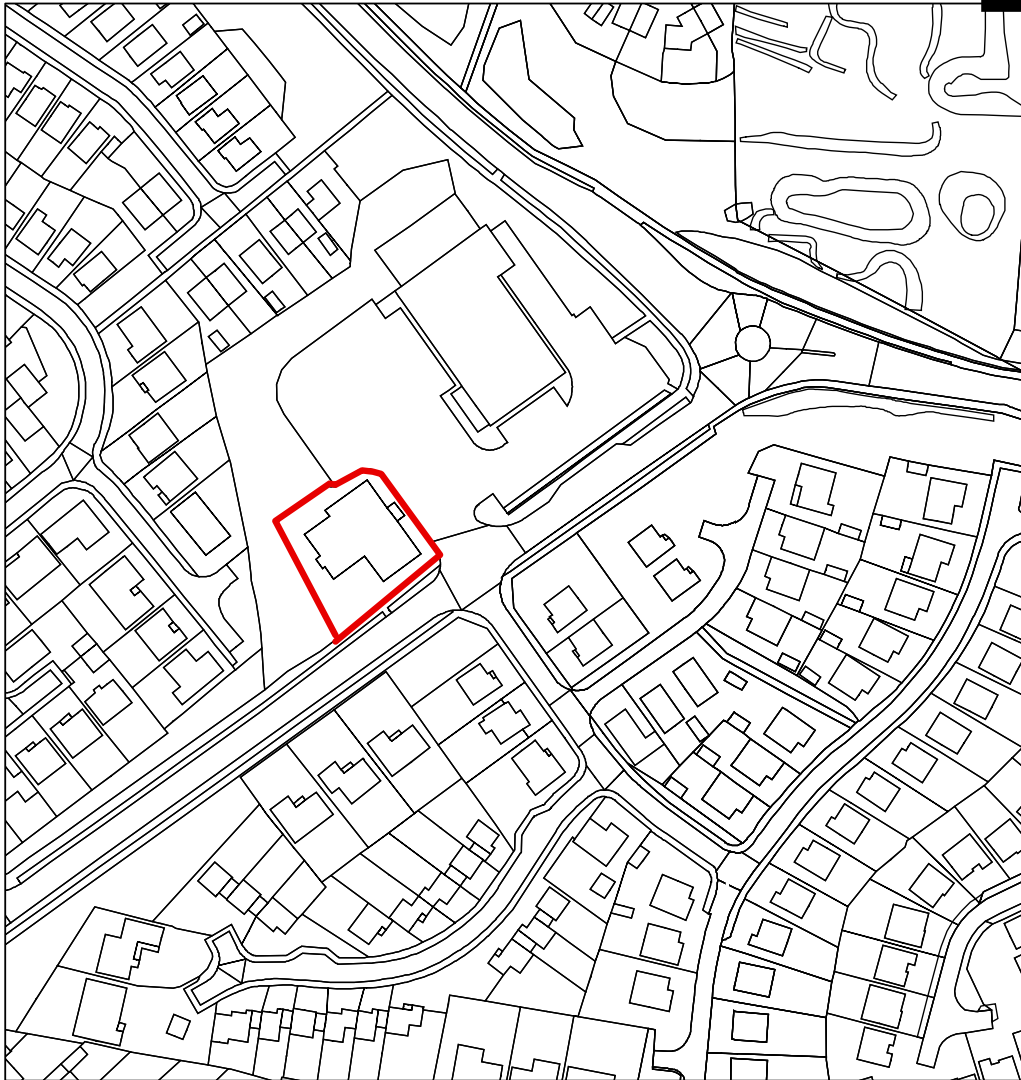
3.9 It is considered that the area of the premises in question is restricted in area and is fairly well separated from existing residential property. Providing it is enclosed sufficient to contain clients and prevent encroachment elsewhere on the premises, the proposal may be acceptable. However, given the public concern expressed it would be prudent to impose a short term temporary permission condition to allow the arrangement to be monitored and reviewed. A condition can be imposed prohibiting outdoor heating in order to safeguard against extended external drinking.

3.10 The requirement for an acoustic fence following the original planning permission arose from concerns about the potential for noise and disturbance arising from the adjacent car park. The question of whether there is a need in practice for the fence to be erected is being investigated separately.

RECOMMENDATION – APPROVE subject to the following conditions, a satisfactory access statement and no further objections being received with the publicity / consultation period.

1. The variation hereby approved to allow for an external drinking area shall be discontinued and the land restored to its former condition on or before 30 September 2006 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority, unless the prior written consent of the Local Planning Authority has been obtained to an extension of this period.
To enable the Local Planning Authority to assess the variation in the light of experience.
2. Prior to the external drinking area being brought into use it shall be enclosed in accordance with details to be previously agreed by the Local Planning Authority
In order to prevent customers from occupying parts of the pub grounds nearer to local residents in the interests of residential amenity.
3. The proposed external drinking area shall be entirely confined to the area delineated in red on the attached plan.
In order to protect residential amenity.
4. There shall be no external heating facilities provided.
In order not to extend te late night usage of the area.

Golden Lion, Dunston Road



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H-2006-0391	REV

No: 4
Number: H/2006/0114
Applicant: Mr/Mrs Cox East Lodge The Parade Hartlepool TS26 0DS
Agent: East Lodge The Parade Hartlepool
Date valid: 24/04/2006
Development: Listed Building Consent to replace two windows in upvc
Location: East Lodge The Parade Hartlepool

The Application and Site

4.1 Listed Building Consent is sought for the replacement of 2 timber framed windows with upvc units. The windows of concern are the bay at the front of the property and the bathroom window in the rear extension.

4.2 The proposed upvc units would be double glazed and would consist of a Georgian style glazing bar design.

4.3 The applicant indicates that the existing windows are rotten and require replacement in order to improve the insulation of the living room and bathroom.

Publicity

4.5 The application has been advertised by way of neighbour letters (1). To date, there have been no objections to the proposal

The period for publicity has expired.

Consultations

4.6 The following consultation replies have been received:

Landscape and Conservation Manager – Objects on the grounds that the proposed materials would be out of character both with the listed building and with the Park Conservation Area.

Planning Policy

4.8 The following policies in the adopted Hartlepool Local Plan 1994 and the emerging Hartlepool Local Plan 2005 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.

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

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

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

HE8: states that traditional materials and sympathetic designs should be used in works to listed buildings and to adjoining or nearby properties affecting the setting of the building. These should be in keeping with the character and special interest of the building. Those internal features and fittings comprising an integral part of the character of the building should be retained where practical. Alterations to part of a listed building will only be approved where the main part of the building is preserved or enhanced and no significant features of interest are lost.

Planning Considerations

4.9 There are concerns that the proposal is not in keeping with the property's character and that the proposed materials are not traditional and do not help to preserve the integrity of the property as a listed building.

4.10 The proposal to replace the existing windows with UPVC is contrary to the guidance policy endorsed by planning committee which states:-

"Any replacement or alterations of previously altered joinery items which is not of a type appropriate to the age and character of the building (in terms of design, detailing and materials) should be denied consent".

"Within modern extensions, any replacement or alteration of joinery details which is not of a sympathetic character (in terms of scale, proportions, form and emphasis) should be denied consent".

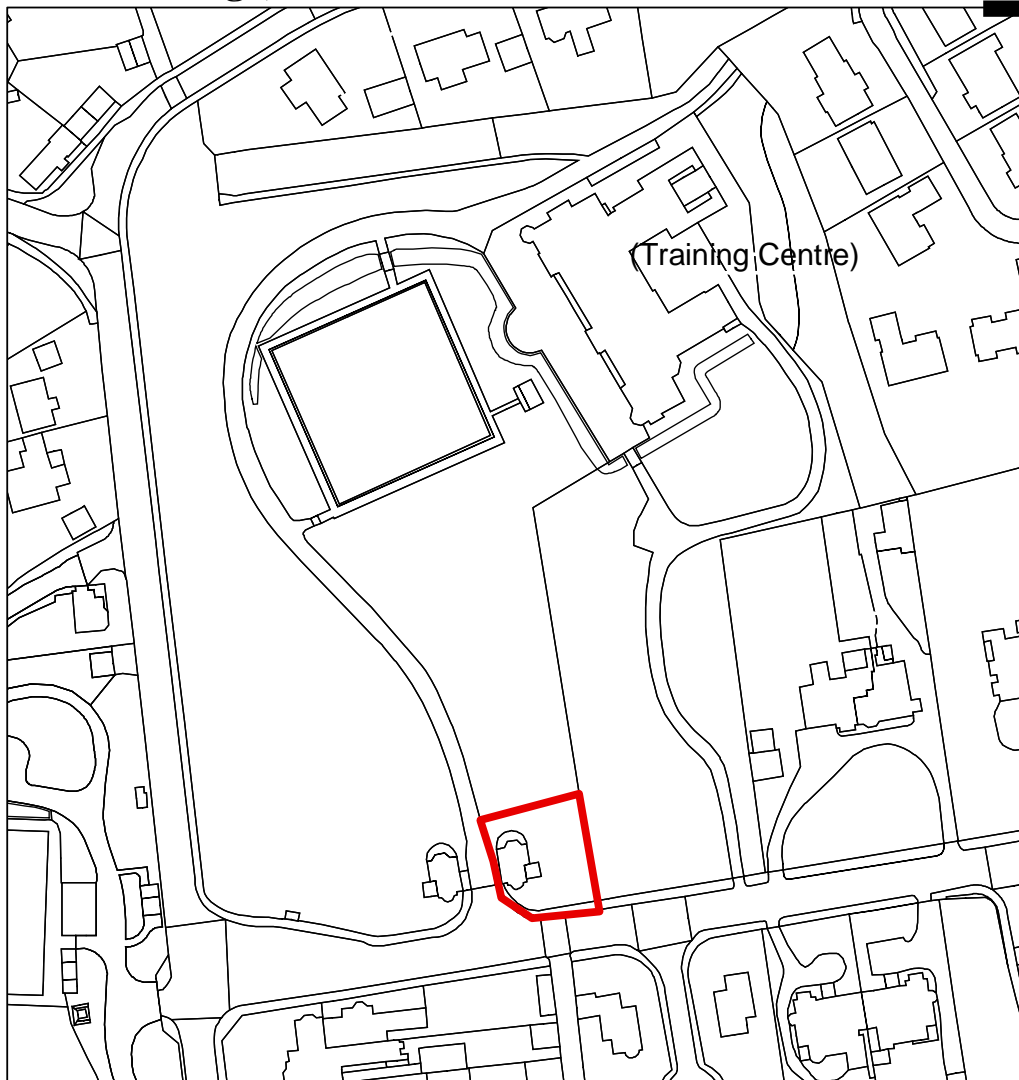
4.11 In addition it is also contrary to local plan policy that states that traditional materials and sympathetic designs should be used in works to listed buildings. Both the guidance and policy clearly reflect national advice on alterations to listed buildings.

4.12 It is concluded that the application should be refused as the windows would harm the character of the listed building and as a consequence of this the character of the Park Conservation Area.

RECOMMENDATION - REFUSE

1. In the opinion of the Local Planning Authority the proposed use of non-traditional materials would be detrimental to the character and appearance of the Park Conservation Area contrary to policy HE1 of the Hartlepool Local Plan 2006
2. In the opinion of the Local planning Authority the proposed use of non-traditional materials would be out of keeping with the character and special interest of the building (Grade II listed building) contrary to Policy HE8 of the adopted Local Plan.

East Lodge, The Parade



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H-2006-0114	REV

No: 5
Number: H/2006/0311
Applicant: Mr T Bates 7 Brinkburn Court Hartlepool TS25 5TF
Agent: 7 Brinkburn Court Hartlepool TS25 5TF
Date valid: 02/05/2006
Development: Use of land as quad and motorcycle track
Location: Brierton Moor House Farm Dalton Back Lane Hartlepool
 Off Dalton Back Lane

The Application and Site

5.1 Detailed planning permission is sought for the change of use of land to provide a practice circuit for motorbikes and quad bikes. The site lies immediately to the west and would be accessed from Dalton Bank Lane via an existing junction. It comprises an irregularly shaped grassed field.

5.2 Provision for 36 car parking spaces would be made close to the site entrance. Portable toilet accommodation would also be provided on site.

5.3 In support of the proposal the applicant has provided the following information:-

1. Participants would use their own vehicles on the site, a maximum of 10 vehicles at any one time.
2. A portable toilet facility would be provided.
3. Hay bales are to be used to form the proposed track.
4. It is proposed to open the track between 10 and 8 Monday to Saturday and between 10 and 4 on Sunday.
5. The track is in a low-lying field and any noise generated will be confined to a small area.
6. This will be a controlled and supervised facility that could help deal with illegal use of bikes on council land and beaches.

Publicity

5.4 The application has been advertised through press advert, site notice and direct notification to local residents. As a result of this exercise some 8 letters of objection have been lodged. The points of contention are summarised as follows:-

1. The development would cause excessive noise and disturbance to nearby residents.
2. Disturbance would be caused to wildlife e.g. pheasant breeding which occurs on a nearby farm.
3. There would be disturbance caused to horses. This would have an adverse effect on nearby business e.g. livery at Blue House Farm as people seek to relocate horses. Horses are more likely to be scared as they are exercised near the site to the detriment of personal and highway safety.

4. The development would cause additional traffic on the road to the detriment of highway safety. The proposal itself would cause distraction to motorists.
5. The combined noise impact of quad bikes on the nearby site would be unacceptable.
6. The landscape would be scarred.
7. There would be an increase in litter.
8. Before the quad bike use was granted permission an acoustic assessment had to be made and the quad bike use subject to conditions restricting it to quad bikes only and then only those kept at the premises.
- 9 It will establish a precedent for other motor sports.
- 10 A new access seems to have been put in place to serve the development.

Copy letters F

The period for publicity has expired.

Consultations

5.5 The following consultation replies have been received:

Nortumbrian Water – Comments awaited.

Environment Agency – No comments

Greatham Parish Council – Raise objections. Site is too close to the road. There is already a similar facility in the area. There would be an increase in traffic on a narrow country lane. Increase in noise disturbance. Detrimental to horse riders who frequently use the lane.

Dalton Piercy Parish Council – Track could be unlawfully used. There will be noise disturbance. Dust pollution/or potential conflict with horse riders. Concern about floodlighting. Traffic concerns. No benefit to local area.

Health and Safety Executive – Comments awaited.

Head of Public Protection – Comments awaited but informally no objections to a temporary permission to enable the use to fully assessed in the light of experience.

Engineering Consultancy – Comments awaited

Highway Engineer – Comments awaited but informally no objections

Ramblers Association – No comments.

Access Group – Require access statement.

Planning Policy

5.6 The following policies in the adopted Hartlepool Local Plan 1994 and the emerging Hartlepool Local Plan 2005 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.

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

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

Planning Considerations

5.7 The main issues for consideration in this case include general principle, noise impact, traffic generation and visual amenity.

Policy/Visual Amenity

5.8 The Local Plan recognises that outdoor sporting uses often require a rural location but that this should not be at the expense of visual or other amenities or highway safety. The proposed use of this site is for informal and limited activity. Though in the countryside the site in question is a low lying position which is not considered to be prominent. If Members are minded to approve it is recommended that a condition be imposed to restrict the use of the site to a practice track and to prohibit potentially noisier more intense and competitive spectator events. A

condition could be imposed to agree the details of the portable toilet facility. A temporary permission is strongly advised.

Noise Issues

5.9 Noise emission considerations are key when assessing this type of use. Prior to the planning application being lodged a trial exercise was staged consisting of various motorcycle sizes and a quad bike being ridden around the field. Sound measuring equipment was used to record the exercise. Furthermore visits were made to various locations further afield including Owton Manor and Dalton Piercy to examine whether any noise could be detected. This exercise failed to detect the operation in these further afield locations. However objections on noise grounds from some of the farms near to the site e.g. Blue House Farm cannot be ruled out especially taking into account that noise associated with sudden acceleration and braking manoeuvres cannot be reliably measured.

5.10 How the proposed use is received will depend on tolerance thresholds of individuals. The detailed views and suggested conditions, to minimise the potential for disturbance of the Head of Public Protection and Housing are awaited.

Highway Issues

5.11 Horses being exercised on Dalton Back Lane are already faced with disturbance from passing traffic and it is considered that any additive effect of this proposal will not be material. The final views of the Highways Engineer are awaited but there are no objections in principal.

Other Issues

5.12 It is considered that the refusal of the application could not be sustained on grounds of litter. With respect to precedent each application would be considered on its own merits. The Council's Ecologist has raised no objections to the proposal.

Conclusion

5.13 It is considered that this may provide a valuable facility that could help relieve pressure for unauthorised use of motorbikes within various parts of the town. However, the final responses of key consultees such as the Head of Public Protection and Housing and Highway Engineer are awaited. Should they not object it is likely that approval will be recommended subject to conditions to control on-site operations and to allow the impact of the facility to be monitored. An update report in advance of the meeting will be provided.

RECOMMENDATION – Update report to follow.

Brierton Moorhouse Farm



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:3000	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H-2006-0311	REV

No: 6
Number: H/2006/0460
Applicant: ALAB ENVIRONMENTAL SERVICES Billingham Reach
 Industrial Estate Billingham TS23 1PX
Agent: Able House Billingham Reach Industrial Estate
 Billingham TS23 1PX
Date valid: 13/06/2006
Development: Installation of treatment plant for the
 solidification/stabilisation of liquid wastes (revisions to
 approved scheme H/FUL/0043/03) RESUBMITTED
 SCHEME)
Location: Seaton Meadows Brenda Road Hartlepool

Background

6.1 At its meeting on 29 March 2006, the Committee refused consent for amendments to a waste treatment / solidification plant at Seaton Meadows on grounds that insufficient information had been made available by the Health and Safety Executive (Nuclear Safety Directorate).

6.2 The application was re-submitted, where at the meeting of the Planning Committee on 29 May 2006 it was again refused.

6.3 This application is an identical re-submission. It has been re-submitted following a degree of confusion when the application was last considered. A reconsultation exercise has been undertaken. Consultees have been informed that their previous responses will be taken as applicable to this application unless they indicate otherwise within 14 days. That 14 day period expires before the meeting.

The Application and Site

6.4 In June 2003 the Planning Committee granted planning permission for the installation of a treatment plant for solidification / stabilisation of liquid wastes at Seaton Meadows subject to conditions.

6.5 The current application seeks a number of changes to the layout of the site and its structures along with an increase in the site area to 0.95 hectares. There are no alterations to the waste treatment processes including the method by which the plant will operate, means of access to the site and vehicle traffic flows and hours of operation already approved by virtue of the previous planning permission.

6.6 In essence the process involves entrapping waste in a concrete matrix utilising fly ash before disposal to the adjoining landfill site.

6.7 The principal changes are the separation of the consolidation plant from the tank farm so as to aid vehicle movement and the provision of steel profiled and concrete

bunded enclosures for waste storage and drum storage bays. There would also be a bund around the drum and vehicle washing bay. The tank farm would comprise of 8 liquid storage tanks, 4 more than previously approved. The tanks would have a maximum height of approximately 8 metres. An oil water separator, some 3.5 metres in height has been relocated to an above ground location. A further change is the deletion of the acid processing element of the scheme.

6.8 The consolidation / mixing plant would be connected to two powder silos containing the material used in the solidifying process. The silos in question are to be reduced in height from 25 metres to 10 metres above ground level. The mixing plant would be the same height and is to be enclosed in green plastic coated profiled metal sheeting.

6.9 The waste and drum stores would be contained by an enclosing structure comprised of a concrete bund and profiled cladding. The roof of the enclosure would slope from front to back to allow convenient access for lorries to reverse up to the respective bays before depositing their loads. The maximum height of the enclosing structures would be some 8.5 metres and 9 metres respectively.

6.10 The site comprises a rectangular area situated adjacent to the screen embankment which runs alongside Brenda Road.

The applicant states that noise emitted from the mixing plant would be 87dba at source and that the apparatus is sealed therefore ensuring no emissions to air.

Publicity

6.11 The application has been advertised by way of press notice and site notice and notification to previously notified residents. To date there have been no objections to the scheme. Letters of objection were received in relation to the previously refused application.

6.12 The following points were raised:-

- 1) Insufficient information provided to assess health and safety implications including on users of the adjacent cycle way and footpath.
- 2) Concern that development could cause accidental release of dust and contaminants into the atmosphere which could be harmful to local residents and workers on the nearby industrial estate. There is insufficient information with regard to how pollutants will be contained.
- 3) Policy GEP 1 states that this development should be on previously developed land. The area should still be regarded as a greenfield site.
- 4) The development is far taller than the 'shielding' bund wall. There is therefore concern about adverse effects due to noise emissions both from the plant and flows of traffic.
- 5) Increase in traffic will inevitably create a dust nuisance.

Copy letters H

The period for publicity expires after the meeting.

Consultations

6.12 The following consultation replies have been received:

Environment Agency – Previously stated that operator of the plant will require a permit. This will contain all the necessary controls to prevent or minimise an environmental impact of the plant and its operation. It is understood that this application does not involve any discharge of liquid waste outside the site boundary. No further comments submitted following from this consultation.

English Nature – Previously confirmed that their response remains the same as for the previous application i.e that the proposal would not be likely to have a significant effect on the interest features of the Teesmouth and Cleveland Coast SPA and Ramsar sites nor cause damage or disturbance to the Seaton Dunes and Common SSSI.

Health and Safety Executive (Hazardous Substances Installation)– Previously confirmed no objection to scheme.

Health and Safety Executive (Nuclear Safety Directorate) – Previously confirmed no objections.

Northumbrian Water – Previously stated no objections.

Head of Traffic and Transportation –Previously stated no major highway safety implications.

Head of Public Protection – Previously stated that their response remains the same as for the previous application i.e that this application is a revision of the scheme that was approved in 2003 and the process has not changed. All that has changed is the size and layout of the plant and some of the storage bays are now enclosed. The noise level from the mixing plant will not be a problem in this location as the site is well separated from any noise sensitive properties. Therefore no objections to this application.

Planning Policy

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

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

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.

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

Planning Considerations

6.14 The main issues for consideration in this case are those that arise from changes to what has already been approved on the site i.e. changes to the scale and layout of the development which could give rise to visual amenity or noise emission issues.

6.15 The principle of this development has already been accepted by virtue of the previous 2003 permission. The method for dealing with the storage and solidification of waste would be as approved and in any event will be regulated by an Environment Agency permit.

6.16 The proposed development area is part of the Seaton Meadows landfill site. There is planning permission to remove clay from this part of the site and to use the resulting void as part of the landfill operation. Indeed when the original planning permission was granted for the waste treatment plant in 2003, this was subject to a planning condition requiring the relevant apparatus to be removed in advance of extraction / landfilling. Given that the site is integral to and will eventually be utilised as part of the landfill operation the question of whether the site has greenfield status is considered not to be relevant.

Emissions

6.17 Planning Policy Statement 23 (PPS 23) which is concerned with planning and pollution control states that the controls under planning and pollution control regimes should complement rather than duplicate each other.

6.18 The Environment Agency has stated that their own permitting regime would contain all the necessary controls to prevent or minimise any environmental impact of the plant and its operation.. The applicant has also confirmed that there are to be no discharges of liquid / water outside the boundary of the facility which therefore satisfies the Environment Agency's second point.

6.19 With respect to impact of the proposed plant the Council's Public Protection officer recognises that noise impact from the mixing plant, which is stated to be 87 dba at source, would not cause a problem given that it is well separated from the nearest noise sensitive properties. With respect to concerns about the general risk of emissions from the site, this would be controlled through the Environment Agency's regulating powers.

6.20 It is important for Members to take into account that the principle of the proposed development has already been established by virtue of the earlier 2003 permission. The proposed methods for treating the liquid waste i.e treating it with pulverised fly ash and cement has already been accepted by virtue of the previous consent.

6.21 It is for the Health and Safety Executive to raise any concerns regarding risk to health and safety or workers on the site. Neither the hazardous substances division nor the nuclear safety directorate have objected to the proposal in the past.

Visual impact

6.20 The enlarged scale of the site and the separation of the tank farm from the consolidation equipment is not considered to be out of keeping with the wider Seaton Meadows site.

6.21 The proposed waste storage bay enclosure structure would at a height of 9 metre be quite tall but not out of keeping with the surrounding industrial landscape. The enclosure can be coloured to help reduce its impact. The adjacent perimeter embankment would also help to mitigate its impact.

6.22 The proposed mixing / consolidation plant and tallest storage silos would be some 10 metres in height. Their visual impact would however be less from Brenda Road as they are sited further into the site and from certain viewpoints would be screened by the bay enclosure structures.

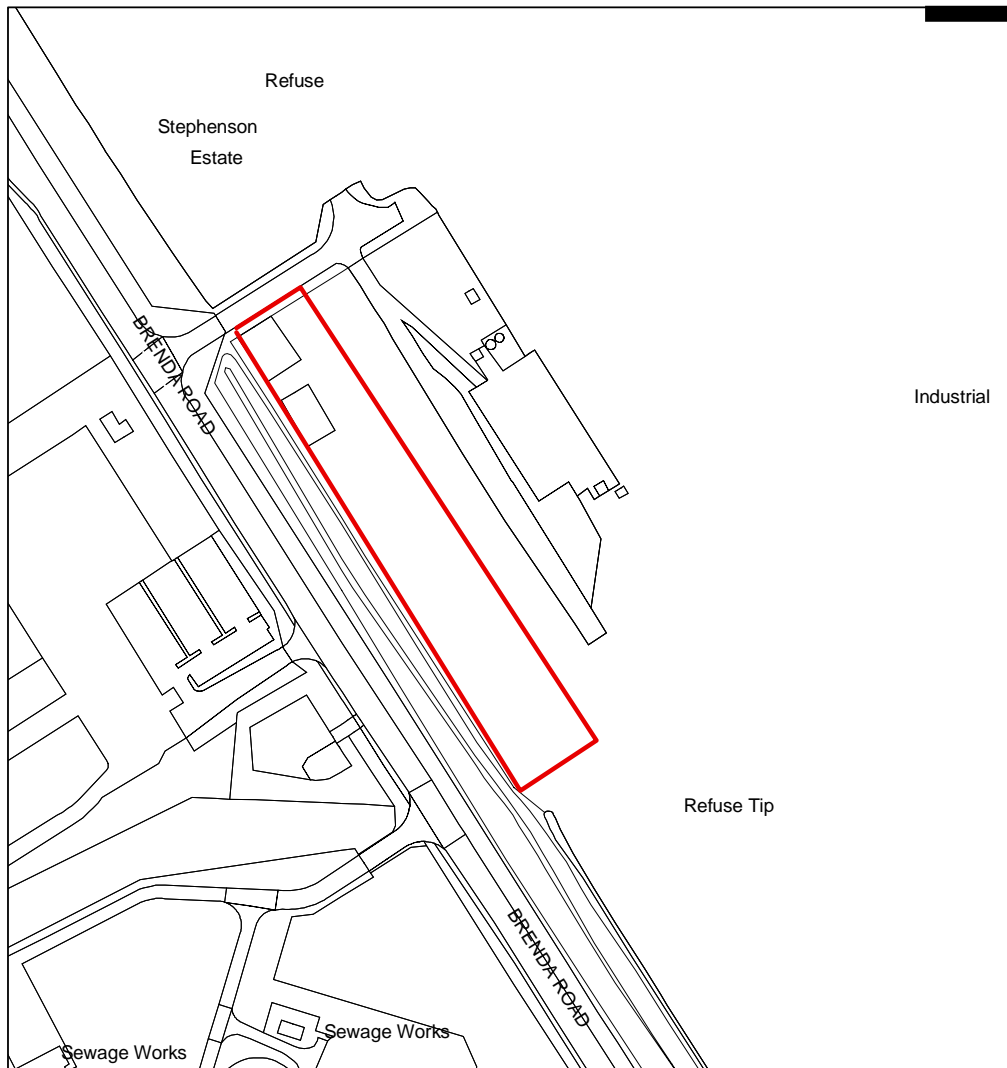
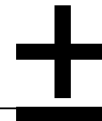
Other matters

6.23 With regard to traffic movements the site already receives deliveries of waste and as such a material increase in the level of traffic entering Seaton Meadows would not be anticipated. Even if there were to be an increase it is unlikely that the effects would be significant.

6.24 Given that consultees have previously found the proposed scheme to be acceptable and that this is a variation of a previously approved scheme officer's consider this proposal to be acceptable. However publicity is still outstanding in all the circumstances of this case it is recommended that Members agree that this application be decided through the Council's scheme of delegation following the expiry of the consultation/publicity period.

RECOMMENDATION – that this matter be decided through the Council's scheme of delegation.

Seatons Meadows



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 12.04.06
	SCALE 1:2000	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2006/0269	REV

No: 7
Number: H/2006/0197
Applicant: Three Rivers Housing Group Three Rivers House Abbey Woods Business Park Pity Me Durham DH1 5TG
Agent: Elliott Holmes Johnson Towneley House Station Road Rowlands Gill NE39 1QF
Date valid: 18/04/2006
Development: Replacement windows reconstruction of bays and provision of insulated render system
Location: 17 MOOR TERRACE HARTLEPOOL HARTLEPOOL

The Application and Site

7.1 Full planning permission is sought for works to 17 Moor Terrace. It is proposed to replace the existing UPVC windows with timber windows (double glazed fixed or top hung casements), the existing bays will be reconstructed with additional insulation incorporated. The render on the front of the building will be removed and replaced. The re-rendered wall will incorporate an insulated render system which the agent estimates will increase the wall depth by some 70mm. The proposals have been brought forward in an attempt to address a long standing dampness problem at the property.

7.2 The property is located in the Headland Conservation Area and is subject to an article 4 designation. It is currently in use as flats (6) and is located in the middle of a terrace with residential neighbours either side.

Publicity

7.3 The application has been advertised by neighbour notification (5), site notice and in the press. The time period for representations has expired. None were received.

Consultations

7.4 The following consultation replies have been received:

Headland Parish Council - No comments received.

Landscape Planning & Conservation - The proposed windows are not a traditional design found in the Headland Conservation Area. The modern detailing of the double glazing, which is usually fixed by beading rather than putty and the opening mechanism results in a different appearance to a sliding sash window. For these reasons the proposed windows would harm the character of the conservation area.

The proposed insulated render system would project from the front face of the building. This would result in a change in the appearance of the property as the depth at the eaves and the eaves detailing is reduced. The rendering would also project out further around windows and doors and may project forward of adjoining

properties. It would harm the character of the building and as a result the conservation area. It is suggested that a traditional lime render which would allow the building to breathe would be a more appropriate solution.

The proposal would harm the character of the conservation area and it is recommended that the application is refused.

Planning Policy

7.5 The following policies in the adopted Hartlepool Local Plan 1994 and the emerging Hartlepool Local Plan 2005 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.

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

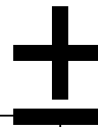
Hsg10: Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

Planning Considerations

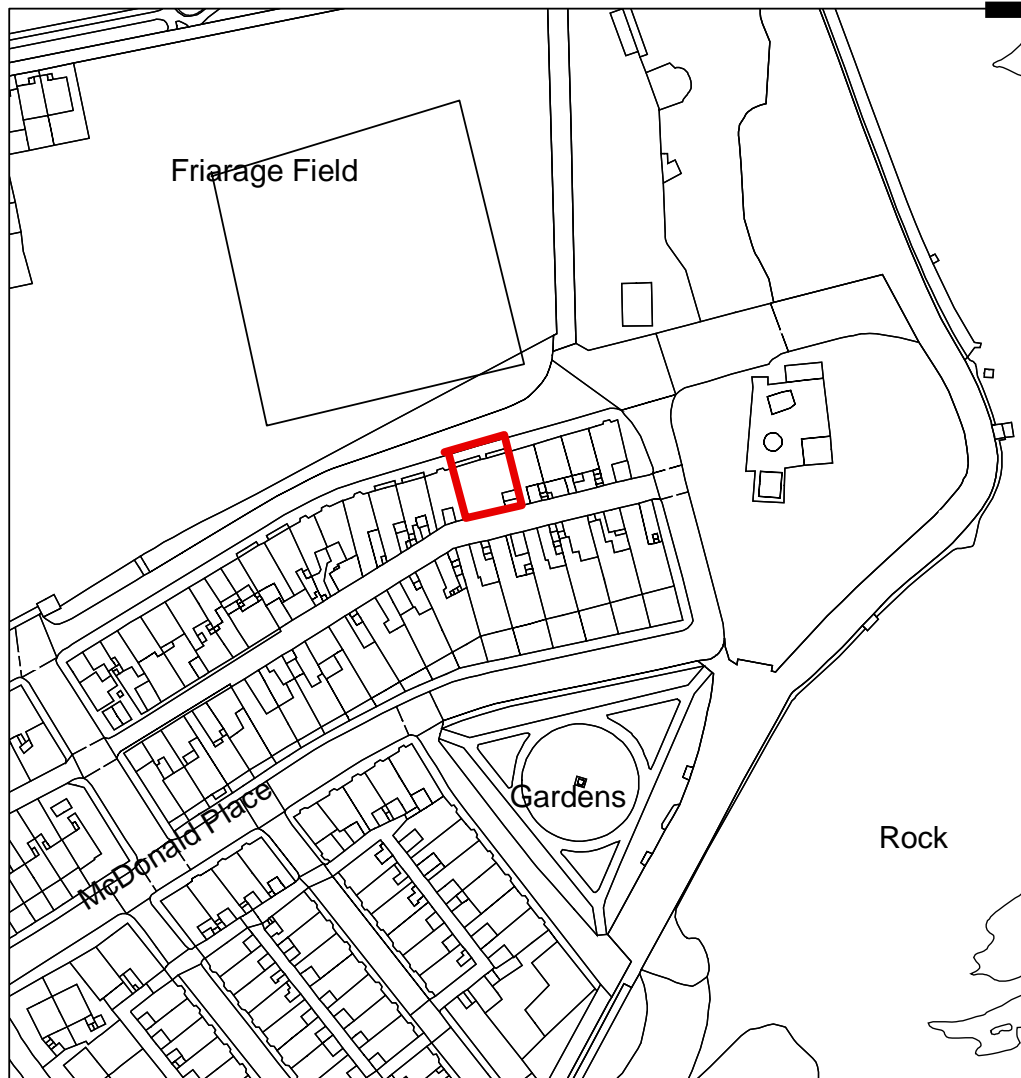
7.6 The main planning considerations are considered to be the impact of the development on the character and appearance of the Conservation Area.

7.7 The applicant has indicated that he may be willing to install sliding sash double glazed windows rather than the fixed/top hung casements proposed. He has been asked to provide further details of the rendered insulation system proposed and these have recently been submitted and are being assessed. An update report will follow

Recommendation – update report to follow



17 Moor Terrace



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H-2006-0197	REV

No: 1
Number: H/2006/0383
Applicant: Mr Gillies 28 COURAGEOUS CLOSE HARTLEPOOL
TS25 1EU
Agent: 28 COURAGEOUS CLOSE HARTLEPOOL TS25 1EU
Date valid: 01/06/2006
Development: Erection of a front boundary fence (0.9m high)
Location: 28 COURAGEOUS CLOSE HARTLEPOOL

Planning Update

After further investigation there are four properties within the vicinity of the application site that have not received formal planning permission for the erection of 'picket' style fencing.

Photographic evidence will be presented to the committee.

A recommendation will be tabled at the meeting.

No: 2
Number: H/2006/0420
Applicant: Ogden Walker Properties Ltd
Agent: Planning Prospects Ltd 1 Bromhall Business Centre
 Bromhall Lane Worcester WR5 2NT
Date valid: 25/05/2006
Development: Erection of 3 retail units including take away use (Classes A1 and A5) and 1 veterinary unit (Class D1) and associated car parking servicing and landscaping
Location: Belle Vue Service Station BELLEVUE WAY
 HARTLEPOOL

Update report

Publicity

1. A further letter and a petition containing some 68 signatures has been received (as anticipated in the main report) raising objections to the proposed development.

2. The sole concern raised by the petition is that the reopening of the access onto Stanley Road would be detrimental to child safety. The present exit onto the A689 should be retained and no new access onto Stanley Road should be allowed.

The further letter raises the following concerns:-

- 1 The new road opening will be dangerous for children and will also attract boy racers in the car park giving rise to anti-social behaviour problems.
- 2 Sick dogs will urinate and foul the ground to the rear of the property
- 3 Late night noise resulting from the take-away
- 4 Vermin would be attracted
- 5 Construction related disturbances such as noise and dust would affect resident's health.

Consultation response

3. Additional comments are as follows:

Environment Consultancy – recommend imposition of condition requiring site to be remediated if found to be contaminated.

Further considerations

4. The concerns expressed with regard to pedestrian safety as a result of the new access onto Stanley Road have been discussed in the main report.

5. A veterinary practice is considered to be an acceptable use within a residential area. Notwithstanding this the main entrance to the premises would be screened from residential properties by the building itself. There is no objection to the surgery from the Head of Public Protection.

6. The effect of a hot food takeaway use on residential amenity has been considered in the main report. The Head of Public Protection has not objected in this regard.

7. Construction related disturbances would be for a short term period only and it is considered to refuse the application on such grounds could not be sustained at appeal.

RECOMMENDATION

The recommendation is therefore as per the main report. An additional condition requiring the site to be appropriately remediated if found to be contaminated is recommended.

No: 5
Number: H/2006/0311
Applicant: Mr T Bates 7 Brinkburn Court Hartlepool TS25 5TF
Agent: 7 Brinkburn Court Hartlepool TS25 5TF
Date valid: 02/05/2006
Development: Use of land as quad and motorcycle track
Location: Brierton Moor House Farm Dalton Back Lane Hartlepool
 Off Dalton Back Lane

Update report

Publicity

1. Two further letters of objection received raising the following objections.
 1. Noise impact from the proposed operation
 2. Use of bales would have little effect in containing noise in the immediate area.
 3. The venture might not be adequately supervised.
 4. Access to the site could only be through bikes being transported to the site on a trailer.
 5. Unlikely to be an attractive facility due to requirement to pay to use the facility.
 6. An Environmental Impact Assessment should be provided.
 7. There would be conflict with Local Plan policies GEP1 and Rur 8
 8. It would cause best quality agricultural land to be lost. The possible use of alternatives sites should therefore have been considered and a sequential test applied.
 9. There is a lack of provision for people with disabilities.
 10. The proposal would conflict with environmental objectives of the Local Plan.
 11. Concerns regarding access / egress of vehicles onto Dalton Back lane.

Consultations

2. Additional comments are as follows

Highways Agency – Comments awaited

H.S.E – Comments awaited

Highway Engineer – With regard to the site itself there is adequate parking and the necessary sight lines can be achieved by relocating the car park further away from the junction.

The Claxton Bank junction is an accident blackspot (4 injury accidents 2003 – 2005), would not therefore support intensification of use of the junction. It is difficult for motorists to judge the speed of oncoming vehicles on the A689. Vehicles pulling trailers could exacerbate problems due to slower acceleration and potential for trailers to encroach within the boundary of the fast lane.. The application should therefore be resisted on highway safety grounds.

Head of Public Protection - No objections to this proposal subject to the following conditions:

1. That permission is only granted for a temporary period of no longer than 12 months, and that any application to extend the permission is supported by a full noise assessment.
2. The hours of use are restricted to 10:00am to 8:00pm Monday to Saturday and 10:00am to 4:00pm on Sundays and Bank Holidays.
3. No more than ten motorcycles and quads in total shall be in operation at any one time.
4. The maximum size of quad bike or motorcycle shall not exceed 125cc and shall be properly silenced and maintained to the manufacturer's specification at all times.
5. No competitions, events or other functions shall be held on the site.
6. No amplified music of any kind shall be played on site or any public announcement system used.
7. A dust suppression system shall be provided and used on site in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. The dust suppression system shall be available for use at all times in accordance with the approved details when the track is in use.
8. The proposed track shall not be floodlit.
9. Any fuel stored on site must be enclosed with a properly bunded enclosure, details of which should be agreed in writing with the local planning authority.

The officer considers that any horses stabled in a neighbouring livery would settle to this use. Horses being ridden on the road should have no more of an adverse reaction than they would from traffic that would pass them on the highway including motorcycles.

Considerations

3. Noise impact - It is considered that the imposition of a temporary use condition allowing the noise impact to be monitored is a reasonable approach to dealing with the concerns raised taking into account that a test exercise was staged and observed by Council officers. A range of conditions could be imposed to control the intensity of usage of the site, timing of usage and engine size of motorbikes / quad bikes in accordance with the recommendations of the Head of Public Protection.
4. Highway issues – The Head of Technical Services has clearly stated that he considers the proposal likely to cause intensification of use of the Claxton Bank junction, an accident black spot. In particular vehicles pulling trailers waiting in

the central reserve area could obstruct oncoming traffic and cause a hazard due to slower acceleration.

Other issues

5. With respect to the Environmental Impact Assessment Regulations, an environmental statement is not mandatory. The regulations require that consideration be given as to whether such a statement should be requested. However government advises that statements are more likely to be required where the site area covers 20 hectare or more. In this case the site area would be less than 3 hectares and is not considered to be in such an environmentally sensitive location as to warrant a statement.
6. The site is not within an area designated as 'best and most versatile agricultural land' and as such the desire to resist development in principle there would not be in keeping with the objectives of Policy Rur 8 of the Local Plan.

Recommendation

Taking into account that there are outstanding consultation responses in particular those of the Highway's Agency it is not possible to finalise a recommendation.

An update will be provided at the meeting.

No: 7
Number: H/2006/0197
Applicant: Three Rivers Housing Group Three Rivers House Abbey Woods Business Park Pity Me Durham DH1 5TG
Agent: Elliott Holmes Johnson Towneley House Station Road Rowlands Gill NE39 1QF
Date valid: 18/04/2006
Development: Replacement windows reconstruction of bays and provision of insulated render system
Location: 17 MOOR TERRACE HARTLEPOOL HARTLEPOOL

PLANNING UPDATE

1. This application appears on the agenda at item 7.
2. The recommendation was left open as details of the insulated render system had been submitted and were under consideration.

Insulated Render System

3. The applicant has provided a sample of proposed insulation system which consists of a lightweight solid but sponge like material which will be applied to the external walls of the property on top of a bedding compound and with metal fixings. A glass fibre mesh will be applied on top of this followed by a bedding mortar and an external render.
4. The applicant has confirmed that the insulated render system described above will project some 7.5cm beyond the existing render. Detailing on the building will be lost to the detriment of the interest and appearance of the building. For example the stone window cills will be completely covered and the depth of detailing elsewhere will be reduced, for example part of the decorated corbelling at eaves level will be hidden. The replacement of the existing defective render with a traditional lime render would be acceptable however this is not acceptable to the applicant. It is considered that the proposal will have a detrimental impact on the character and appearance of the building and the Headland Conservation Area.
5. The applicant has confirmed that he is willing to accommodate sliding sash windows however he has also confirmed that they must be double glazed. In this particular case given the fact that the building currently has double glazed UPVC windows the Conservation Officer believes this could be possible but further details would be needed. This has been put to the applicant however in light of the ongoing concerns regarding the insulated render system the application as a whole cannot be supported.

RECOMMENDATION Refuse – for the following reasons

1. It is considered that the proposals by reason of the increased projection of the proposed insulated render system and the subsequent loss of detailing on the main façade of the building would have a detrimental impact on the character and appearance of the building and the Headland Conservation Area.

Report of: Head of Planning and Economic Development

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

- 1.1 During this four (4) week period, sixty eight (68) planning applications have been registered as commencing and checked. Thirty nine (39) required site visits resulting in various planning conditions being discharged by letter.

2. BACKGROUND

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

1. Four cases regarding the erection of an outbuilding, velux windows, concrete doorstep, and business operating from home, have been investigated. The developments benefited from 'permitted development' rights and did not require planning permission.
2. A review of an operating licence for the use of a property in Elwick Road for the parking of a commercial vehicle has been investigated. The situation involved the van being used by the occupier of the dwelling to convey him around the area in connection with his business. In this case, the parking of the vehicle can be considered as ancillary to the residential use of the property no requiring planning permission. The large detached property has adequate parking arrangements.
3. A neighbour complaint about the erection of stables and livery at a property in Elwick has been investigated. The occupier of the dwelling has stopped work on the stables and submitted an informal enquiry. Options for the position of new stables have been indicated. Any commercial activity will be explored and developments will be reported to a future meeting if necessary.
4. A complaint about the replacement of a wooden sash window to UPVC at a property in Park Road has been noted. The property lies in the Grange Conservation Area. Developments will be reported to a future meeting if necessary.
5. Monitoring of conditions attached to the planning approval for housing development in Ashwood Close is being checked. Developments will be reported to a future meeting if necessary.

6. A neighbour complaint about the storage of vehicles in the rear garden of a residential property in Tempest Road is being investigated. Developments will be reported to a future meeting if necessary.
7. A neighbour complaint about the replacement of a long-standing storage container with another container at a sports ground in Seaton Carew has been investigated. Following helpful assistance from a club official the container has been re-sited next to existing containers in an agreed position on the sports ground a significant distance away from residential properties. The container has also been repainted green. The complainants have thanked officers for the speedy resolution of this matter.
8. A complaint about the unauthorised operation as a car wash business at a vacant petrol station on Stockton Road has been investigated. The use requires planning permission and the operator has been contacted and agreed to submit a retrospective planning application. This may be reported to a future meeting if necessary.
9. A complaint from the Parish Council about the replacement of a front on a property in Elwick is being investigated. The property is subject to an Article 4 Direction. Developments will be reported to a future meeting if necessary.
10. A neighbour complaint about the parking of commercial vans at a property in Coniscliffe Road is being investigated. Developments will be reported to a future meeting if necessary.
11. A neighbour complaint about the parking/storage of cars at Torquay Avenue has been investigated. Investigations suggest that the cars could be for hobby or personal use. However the property will continue to be monitored. Developments will be reported to a future meeting if necessary.
12. A neighbour complaint about building works to a property in Felixstowe Close not being built in accordance with the approved plans has been investigated. It was confirmed that the bay window extension was wider and was acknowledged by the builder who agreed to amend the work.
13. A neighbour complaint about new flats development on land in Elwick not complying with relevant operating planning conditions is being investigated. Developments will be reported to a future meeting if necessary.
14. An anonymous complaint about the parking of a caravan at a property in Oakwood Close is being investigated. For

clarification, the parking of a caravan within the curtilage of a dwellinghouse may be considered as incidental to the enjoyment of that dwellinghouse. Developments will be reported to a future meeting if necessary.

Report of: Head of Planning and Economic Development

Subject: CURRENT POSITION ON UNTIDY/DERELICT
LAND AND BUILDINGS

1. PURPOSE OF REPORT

- 1.1 To update members on the progress on ten problematic untidy/derelict building and sites identified in the Borough for action.

2. BACKGROUND

- 2.1 A report to the Regeneration, Liveability & Housing Portfolio Holder has recently been submitted. This was on the basis that both the Portfolio Holder and this Committee have asked for progress reports. A copy of the report is attached (**Appendix 1**) for information.

3. RECOMENDATION

- 3.1 Members note the report.

REGENERATION, LIVEABILITY & HOUSING PORTFOLIO

Report To Portfolio Holder

23 June 2006



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

Subject: CURRENT POSITION ON UNTIDY/DERELICT LAND AND BUILDINGS

SUMMARY

1.0 PURPOSE OF REPORT

To update the Portfolio Holder on the progress on securing improvements to specific untidy/derelict buildings in the town.

2.0 SUMMARY OF CONTENTS

The report outlines progress in relation to 10 identified sites.

3.0 RELEVANCE TO PORTFOLIO MEMBER

The quality of the environment is a key element of the Portfolio Holder's area of responsibility.

4.0 TYPE OF DECISION

Non-Key.

5.0 DECISION MAKING ROUTE

Portfolio Holder.

6.0 DECISION REQUIRED

That the Portfolio Holder notes the current position with regard to identified sites.

REGENERATION, LIVEABILITY & HOUSING PORTFOLIO

Report To Portfolio Holder

23 June 2006



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

Subject: CURRENT POSITION ON UNTIDY/DERELICT LAND AND BUILDINGS

1 PURPOSE OF REPORT

- 1.1 This is an update report to explain briefly the progress on ten problematic untidy/derelict buildings and sites identified in the Borough for action.

2 BACKGROUND

- 2.1 Consultants (Ferguson McIlveen, and Jacksons C & PL) have been engaged to enquire into and write to landowners requesting a programme of works to secure environmental enhancements in relation to the 10 sites referred to below. The intention is to be seen as acting even-handed through initial negotiations, yet with a clear imperative that powers under sec. 215 of the Planning Act will be exercised if cooperation or voluntary action from the landowners is not forthcoming.

3 PROGRESS

- 3.1 The sites under consideration are: -

1) Golden Flatts Public House

First warning letter sent. A response has been received from the owner pointing out the site benefits from planning permission to redevelop for housing and the building will be demolished. However, there is a sec. 106 legal agreement needing to be signed by all parties before the planning certificate can be issued. This is nearing completion and it is hoped that early demolition can be agreed. The matter is being kept under review.

2) Longscar Centre, Seaton Carew

First warning letter sent. A response has been received from Solicitors acting for the owner confirming that repairs will be carried out to the roof and rubbish cleared from the rear. Inspection has confirmed that rubbish has been cleared from the rear and new security fencing erected. Officers will ensure roof repairs are carried out.

3) Crown House, Surtees Street

There are ownership complications with the building in that the owning company was removed from the Companies Register. This means the property is currently vested with the Crown. Formal proceedings however are underway to have the company restored to the Companies Register. The company's solicitors have advised that once restoration has been achieved, the company as the sole legal and beneficial owner of the property would address issues relating to the repair and maintenance of the property. A court case management conference was due to be held on 22nd May. Confirmation of the current legal position is awaited from the company's solicitors. The option for action under sec 215 powers is being kept under review.

Land owned by the Council adjoining the site on the corner of Surtees Street and Tower Street, which is also in a poor state, will shortly be tidied up and the unauthorised parking on it will be prevented by the erection of bollards.

4) Former Gas Showroom, Victoria Road

First warning letter sent. A response has been received from the owner who indicated that work has commenced to comply with the planning approval for a new public house. Amendments have recently been submitted that may need the owner to submit a new planning application. Possible action is being discussed in the absence of a detailed programme of works. This programme is to be requested.

5) Former Odeon Cinema, Raby Road

First warning letter sent. While discussions are ongoing about alternative development proposals no response has been received from owner. Ownership to be rechecked.

6) The New Fleece Public House, Northgate

First warning letter sent to the owner, warning of the Council's powers under sec 215 and giving notice of an advertisement offence regarding a hoarding displayed on the building. A separate letter has been sent to Titan outdoor regarding the hoarding.

To date there has been no response to either letter. The two-week period given in those letters for response has expired. Planning permission has been granted to demolish the public house and develop the land. A detailed timetable for the development needs to be agreed with the developer.

7) Victoria Buildings, Middlegate

Negotiations regarding grant applications to develop the building are at a sensitive stage. As a consequence, the matter is to be held in abeyance.

8) Morrison Hall, Church Close

First warning letter sent to the owner. There has been a response and the owner has agreed to carry out remedial works to the building by the week commencing 19th June. This will be monitored.

9) Old United Reform Church, Durham Street

A planning appeal decision for conversion to 10 self-contained flats is awaited. First warning letter sent to deal with immediate issues.

10) Niramax Tyre Depot, Mainsforth Terrace.

First warning letter sent. The owner has responded by confirming that the tyres are being removed from the site at the moment. The wall will be demolished as part of an approved housing development. No timescale has been indicated. It is felt that immediate action is required to reinstate the wall by repairing the holes in it. Notice to be served under sec. 215. This action will be initiated by the consultants, Ferguson McIlveen and Jacksons C & PL.

4. SUMMARY

- 4.1 In summary, it is clear that property owners are responding to the approach taken, but that there remains a need for officers and the Council's consultants to continue to monitor and chase progress.
- 4.2 A similar report will be submitted to the Planning Committee.

5. RECOMMENDATION

- 5.1 It is recommended the Portfolio Holder note the report.

Report of: Assistant Director (Planning & Economic Development)

Subject: APPEAL REF APP/H0724/A/2008070: H/2005/5856
CHANGE OF USE OF VACANT OFFICES TO HOT
FOOD TAKEAWAY (A5 USE), 197 YORK ROAD,
HARTLEPOOL TS26 9EE

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to update members of the outcome of a recent planning appeal at 197 York Road, Hartlepool for the change of use from vacant offices to a hot food takeaway (A5 use). The Planning Inspector has now determined the appeal. A copy of the Inspector's report is attached in full.
- 1.2 The appeal was upheld by the Inspectorate. The inspector appreciated the desire of the Council to control the range of uses in the edge of Town centre areas through Policy Com4A. However, he did not consider that there would be any detriment to local amenities or highway safety and therefore no harm to the purpose behind the policy.

2. RECOMMENDATION

- 2.1 Members note the decision.



The Planning Inspectorate

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Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line: 0117-372-6084
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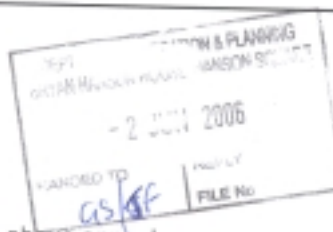
<http://www.planning-inspectorate.gov.uk>

Mr J Ferguson
Hartlepool Borough Council
Department Of Regeneration &
Planning
Bryan Hanson House
Hanson Square
Hartlepool
TS24 7BT

Your Ref: 4/2005/5856
Our Ref: APP/H0724/A/06/2008070/NWF
Date: 1 June 2006

Dear Mr Ferguson

Town and Country Planning Act 1990
Appeal by Shamsul Babul
Site at 197 York Road, Hartlepool, TS26 9EE



I enclose a copy of our Inspector's decision on the above appeal.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252

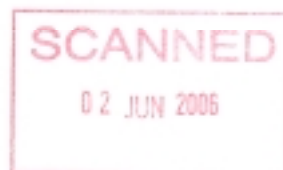
Fax No. 0117 372 8139

E-mail: Complaints@pins.gsi.gov.uk

Yours sincerely

Nathan Lumber

COVERDL1



You can now use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is -
<http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>





The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime Minister and the National Assembly for Wales

Challenging the Decision in the High Court

02 JULY 2006

Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions and advertisement appeals.). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Frequently asked questions

"Who can make a challenge?" – In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land – other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this – see Further Information).

"How much is it likely to cost me?" – A relatively small administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees – see "Further information"). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" – This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" – You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" – Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again but for different or expanded reasons.

"What can I do if my challenge fails?" – The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Further information

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 2LL, telephone 0207 9476655; Website: www.courtservice.gov.uk

Council on tribunals

If you have any comments on appeal procedures you can contact the Council on Tribunals, 81 Chancery Lane, London WC2A 1BQ. Telephone 020 7855 5200; website: <http://www.council-on-tribunals.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.

Contacting us

High Court Section
The Planning Inspectorate
4/07 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Phone: 0117 372 8962

Website

www.planning-inspectorate.gov.uk

General Enquiries

Phone: 0117 372 6372

E-mail: enquiries@pins.gsi.gov.uk

Complaints

Phone: 0117 372 8252

E-mail: complaints@pins.gsi.gov.uk

Cardiff Office

The Planning Inspectorate
Room 1-004
Cathays Park
Cardiff CF1 3NQ
Phone: 0292 082 3866
E-mail: Wales@pins.gsi.gov.uk

The Parliamentary Ombudsman

Office of the Parliamentary
Commissioner for Administration
Millbank Tower, Millbank
London, SW1P 4QP

Helpline: 0845 0154033

Website: www.ombudsman.org.uk

E-mail: opca-enqu@ombudsman.org.uk

SCANNED

02 JUN 2006



The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime Minister and the National Assembly for Wales

Our Complaints Procedures

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it.

Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly held.

We therefore do our best to ensure that all complaints are investigated quickly, thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms.

When investigating a complaint we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, we know that there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. Minor slips and errors may be corrected under the terms of the Planning & Compulsory Purchase Act 2004 but we cannot amend or change in any way the substance of an Inspector's decision.

Who checks our work?

The Government has said that 99% of our decisions should be free from error and has set up an independent body called the Advisory Panel on Standards (APOS) to report on our performance. APOS regularly examines the way we deal with complaints and we must satisfy it that our procedures are fair, thorough and prompt.

SCANNED!

02 JUN 2006

Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"If you cannot change a decision, what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds whether these views justify refusing planning permission.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. It can investigate and has discretionary powers to take action if a condition is being ignored.

Further information

Every year we publish a Business and Corporate Plan which sets out our plans for the following years, how much work we expect to deal with and how we plan to meet the targets which Ministers set for us. At the end of each financial year we publish our Annual Report and Accounts, which reports on our performance against these targets and how we have spent the funds the Government gives us for our work. You can view these and obtain further information by visiting our website (see 'Contacting us'). You can also get booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or on the ODPM website - www.odpm.gov.uk/

Contacting us

Quality Assurance Unit
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The Parliamentary Ombudsman

Office of the Parliamentary
Commissioner for Administration
Millbank Tower, Millbank
London, SW1P 4QP

Helpline: 0845 0154033
Website: www.ombudsman.org.uk
E-mail: opca-enqu@ombudsman.org.uk

SCANNED
02 JUN 2006



Appeal Decision

Site visit made on 8 May 2006

by **Graham E Snowdon** BA BPhil DipMgmt MRTPI

an Inspector appointed by the First Secretary of State

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Date: 1 June 2006

Appeal Ref: APP/H0724/A/06/2008070/NWF
197 York Road, Hartlepool TS26 9EE

- 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 Shamsul Babul against the decision of Hartlepool Borough Council.
- The application ref: H/2005/5856 dated 12 October 2005, was refused by notice dated 24 January 2006.
- The development proposed is described in the application form as the change of use from vacant offices to A3 use. Following changes to the Use Classes Order, which came into effect on 21 April 2005, the development is more correctly described in the Council's decision notice as change of use of vacant offices to hot food takeaway (A5 use).

Decision

1. I allow the appeal and grant planning permission for the change of use of vacant offices to hot food takeaway (A5 use) at 197 York Road, Hartlepool TS26 9EE, in accordance with planning application ref: H/2005/5856, dated 12 October 2005 and the plans submitted therewith, subject to the following conditions:
 - (i) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - (ii) The use hereby permitted shall not be open to customers outside the following times: 1200 to 2330 hours, Monday to Saturday only.
 - (iii) The use hereby permitted shall not commence until plans and details for ventilation filtration and fume extraction equipment to reduce cooking smells have been submitted to, and approved in writing by, the local planning authority and thereafter installed in accordance with approved specifications. Thereafter the approved equipment shall be retained and used in accordance with the manufacturers instructions at all times whenever food is being cooked on the premises.

Reasons

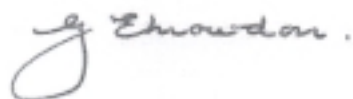
2. The appeal premises are located within a terrace of commercial properties flanking the classified B1277 on the southern fringes of the town centre. The adjacent premises are in use as a hot food takeaway and there are other similar outlets in the area. There appears to be one residential property on the opposite side of the B1277 at 198 York Road, but the nearest concentration of residential property is some distance to the west, beyond Caroline Street.

SCANNED

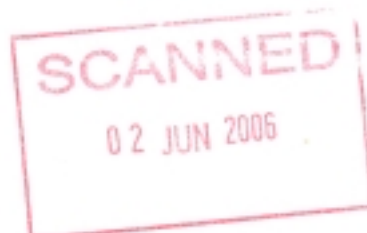
02 JUN 2006

Appeal Decision APP/H0724/A/06/2008070/NWF

3. I am referred by the Council to Policy Com 4A in the emerging Local Plan, which was the subject of a local inquiry in June 2004. As a consequence of the Inspector's recommendations, this additional Policy, which relates to edge of town centre areas, was introduced as part of Proposed Modifications in September 2005. This states, among other things, that further hot food takeaways in the York Road South area will not be permitted. Because of the advanced stage in the preparation of the emerging Local Plan, which is expected to be adopted shortly, I must give significant weight to this provision. However, I have limited information before me relating to the background and purpose behind this Policy. It appears that it was introduced to protect the amenities of residents, particularly in those areas, identified by the Local Plan Inquiry Inspector, which adjoin established housing areas. These do not include the York Road South area.
4. I consider that the proposal is in a mixed commercial area and is sufficiently distant from residential property not to cause a nuisance through noise and disturbance or fumes and cooking odours, provided that appropriate conditions, as suggested by the Council, are imposed. In this respect, therefore, the proposal would comply with the terms of Policy Gen 1 in the adopted Hartlepool Local Plan as well as emerging Policy Com 18. I also note that there have been no objections to the proposal from local residents.
5. I am also not convinced that the proposal would adversely affect highway and pedestrian safety for the users of York Road, as suggested in the Council's first reason for refusal. There are parking restrictions on this stretch of York Road between 0700 and 1900 hours and I do not consider that the use is more likely to generate a disregard of the traffic regulation order than any other use in this location. In the evening, I would expect traffic flows on York Road to be less and there is no evidence before me that roadside parking would create a danger for either pedestrians or drivers, particularly as there are already other hot food takeaways in the vicinity. I note that there have been no objections from the highways authority.
6. Whilst appreciating the desire of the Council to control the range of uses in the various edge of town centre areas identified in emerging Policy Com 4A, I do not consider that there would be any detriment to local amenities by allowing this proposal and, therefore, no harm to the purpose behind the Policy. This convinces me that there would be no sound planning reason to dismiss the appeal.



INSPECTOR



Report of: Assistant Director (Planning & Economic Development)


Subject: APPEAL BY MR LLOYD NICHOLS SITE AT 15-17 THE FRONT, SEATON CAREW, HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 To inform members of the outcome of an appeal at the above site against the refusal of a planning application for the change of use and alterations to provide ground and first floor licensed premises.
- 1.2 The appeal was upheld. A copy of the decision letter is **attached**. The Inspector took the view that the proposal would not significantly affect the living conditions of nearby residents in terms of noise or disturbance and that provided delivery times were properly controlled it would not adversely affect highway safety. Relevant conditions were imposed on the approval.
- 1.3 The applicant also submitted a claim for costs which was dismissed.

2. RECOMMENDATION

- 2.1 That Members note the outcome of the above appeal.



Appeal Decision

Hearing held on 17 May 2006

by Mrs K.A. Ellison BA(Hons), MPhil, MRTPI

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

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Date **05 JUN 2006**

Appeal Ref: APP/H0724/A/05/1175435
15-17 The Front, Seaton Carew, Hartlepool TS25 1BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Lloyd Nichols against the decision of Hartlepool Borough Council.
- The application Ref H/FUL/0681/04, dated 9 August 2004, was refused by notice dated 15 December 2004.
- The development proposed is the formation of new licensed premises.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

- An application for costs was made by Mr Nichols against Hartlepool Borough Council and this is the subject of a separate Decision.
- It was confirmed at the Hearing that the proposal related to the ground and first floor of the appeal premises. It was also confirmed that it was intended to operate a mixed pub and restaurant (classes A3 and A4 of the Town and Country Planning (Use Classes) Order 1987, as amended 21st April 2005) where neither element could be classed as ancillary. I have therefore determined the appeal on that basis.

Main Issues

- I consider that the main issues in this appeal are, firstly, the effect of the proposal on the living conditions of nearby residents, especially in relation to noise and disturbance and secondly, its effect on highway safety, with particular regard to delivery arrangements.

Planning Policy

- The development plan includes the Hartlepool Local Plan Including Minerals and Waste Policies 2005. Under policy Com18, proposals for food and drink developments will only be permitted where, among other things, there will be no significant detrimental effect on occupiers of nearby properties by reason of noise and disturbance and that there would be no adverse effect on highway safety. These criteria are also contained in policy GEP1. With regard to protection of amenity, policy Com18 also refers to the use of planning conditions and the negotiation of developer contributions. Policy GEP9 deals with such contributions and states that they will be sought for additional works deemed to be required as a result of the development and may include additional measures for street cleansing and crime prevention. Further detail is contained in Supplementary Note 9 which states that

financial contributions will be sought where it is deemed that a development may either singly or cumulatively affect the amenities of an area.

5. The appeal site lies within the Seaton Carew Conservation Area where policy HE1 expects development to preserve or enhance its character or appearance. It also lies within the core area of Seaton Carew where policy To3 permits commercial and leisure developments provided they are sympathetic to the character of the area and are in keeping with its development as a seaside resort. Furthermore, policy Com11 identifies the area as a Commercial Improvement Area where environmental and other enhancement schemes will be encouraged.

Reasons

6. The appeal premises consist of two, recently refurbished shops situated around the mid-point of a short terrace of seafront properties in the centre of Seaton Carew. To either side, and in the same ownership, are two large arcades offering a range of seaside-related leisure activities as well as a café and children's play area. The Appellant seeks to operate the pub/restaurant in association with the wider leisure business.

Issue 1: Noise and Disturbance

7. The Seaton Carew commercial area is concentrated along the seafront. However, it quickly gives way to residential uses. In particular, Major Cooper Court, a sheltered housing complex comprising a small apartment block, a two-storey annex and a number of bungalows, lies immediately to the rear of the appeal site. Charles Street, a narrow alley, leads from the seafront, through Major Cooper Court, to the park and other residential areas of Seaton Carew.
8. There are already a number of licensed premises nearby, particularly the Longscar Centre across the road from the appeal site, the Marine Hotel to the north and the Seaton Hotel to the south. In addition, as residents pointed out at the Hearing, the seafront serves as a focal point for young people to gather. I can understand the very real concerns expressed by residents with regard to the disturbance they already experience, particularly in relation to unsocial behaviour in and around Charles Street. I also recognise that, even though it is intended to operate the appeal premises as a pub and restaurant, the balance between the two elements will vary during trading hours, with the restaurant element likely to be less active later in the evening. In this respect, I note that the licensing plan, although not part of the planning proposal, suggests the premises have an overall capacity for some 360 people.
9. However, the proposal is for a pub/restaurant so that it would differ substantially from the type of town centre public house described by the Council and envisaged by some residents. In addition, it would be associated with the arcades to either side, which are clearly geared towards a wide range of customers. Furthermore, since the internal layout would need to reflect the mixed use, it seems to me that the number of customers on the premises at any one time would probably be well below that indicated on the licensing plan. In view of the nature and scale of the business and its links to the adjacent arcades, the proposal would not, in my view, be likely to encourage high levels of alcohol consumption either within the premises or in relation to under age drinking around the seafront area. As a result, I consider that the appeal proposal would not materially add to instances of alcohol-related disorder and unsocial behaviour in the locality.

10. Whilst Major Cooper Court is adjacent to the appeal site, the two properties are separated by a brick wall some 4-5m in height. During my site inspection, I noted that although there was considerable noise within the arcades, this was not generally audible when standing in the grounds of Major Cooper Court. Consequently, provided suitable noise insulation measures were taken, there is no reason to expect that nearby residents would experience undue disturbance as a result of noise from within the appeal premises.
11. On my first issue therefore, I conclude that the proposal would not significantly affect the living conditions of nearby residents in terms of noise or disturbance.

Issue 2: Highway Safety

12. Turning to my second issue, the layout of the surrounding area is such that deliveries would normally be made to the front of the premises. Whilst there are a number of parking bays to the front, the survey submitted by the Council indicates that they may well be occupied at certain times of the day. If this was the case at delivery times, it could well give rise to double parking.
13. During my site visit, I was able to observe an example of double parking which occurred a short distance to the south of the appeal site. From my observations, it was clear that such behaviour would represent a significant risk to the safety both of other road users and of pedestrians seeking to cross between the seafront and the remainder of the town.
14. However, the Council's survey suggests that the bays are less well used in the early part of the day, which would generally accord with the pattern of leisure activity associated with a seafront location. I therefore consider that safety concerns related to delivery arrangements could be overcome through restricting deliveries to the early part of the day.
15. Consequently, I conclude on my second issue that, provided delivery times were properly controlled, the proposal would not adversely affect highway safety.

Overall Conclusions

16. I have found that, provided suitable conditions were in place, a pub/restaurant would not give rise to a level of noise or disturbance which would materially affect nearby residents and would not adversely affect highway safety. On that basis, I conclude that the proposal would not conflict with policies Com 18 and GEP1 of the Local Plan. Moreover, the re-use of these buildings would enhance the conservation area and bring vitality and viability to the Commercial Improvement Area and core area of Seaton Carew, so that it would be in keeping with the aims of policies HE1, To3 and Com11.

Conditions

17. The Council suggested a number of conditions. Given the prominence of the buildings in the conservation area, I consider that details should be submitted of window finishes, door ironmongery, exterior lighting and paint colours to ensure that the appearance of the conservation area is preserved. However, this could be dealt with as a single condition. Conditions relating to opening hours, the use of the courtyard and courtyard doors, the use of the second floor, storage of refuse, ventilation arrangements and noise would all be necessary to protect the living conditions of nearby residents. Given the possible effect of a drinking establishment use only, a condition requiring the maintenance of a mixed A3/A4 use would also be appropriate for the same reason. As I have already noted, control over

delivery times is necessary in the interests of highway safety although, on the basis of the Council's parking survey, there seems to be no reason why this should not be set at 10.00am each day.

18. I shall word the conditions to accord with the advice in Circular 11/95, *The Use of Conditions in Planning Permissions*.

Planning Obligation

19. I note that, at the time the Council reached its decision, there appeared to have been agreement in principle on the question of a planning obligation relating to street cleansing and crime prevention. Nonetheless, no planning obligation has been submitted with this appeal.
20. However, although some information as to disorder was provided, this related to Hartlepool town centre and no evidence was produced as to the particular circumstances in Seaton Carew. I have found that the proposal would not materially add to alcohol-related disorder or unsocial behaviour in the locality and there is nothing before me which identifies any additional impact which might result from it, either singly or cumulatively. It follows therefore that no additional measures in relation to services such as street cleansing and crime prevention could reasonably be deemed to be required. As such, I consider that an obligation along the lines of policy GEP9 and Supplementary Note 9 could not be justified in this instance to make the development acceptable in planning terms, as required by Circular 05/2005 *Planning Obligations*.

Conclusions

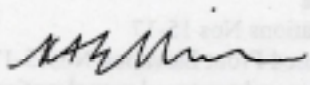
21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

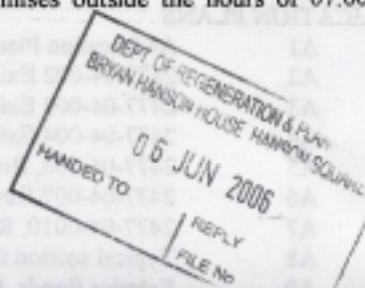
Formal Decision

22. I allow the appeal, and grant planning permission for the formation of a pub/restaurant at 15-17 The Front, Seaton Carew, Hartlepool in accordance with the terms of the application, Ref H/FUL/0681/04, dated 9 August 2004, and the plans submitted therewith, as amended, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
- 2) No development shall take place until details of the following have been submitted to and approved in writing by the local planning authority: the side panels in the front doorways; window finishes; door ironmongery; exterior lighting; and external finishes and paint colours. Development shall be carried out in accordance with the approved details.
- 3) The premises shall not be open for customers outside the hours of 08.00 – midnight.
- 4) The courtyard area shall not be open to the public or used as an amenity area without the grant of further specific permission from the local planning authority.
- 5) The doors to the rear courtyard shall remain closed during the hours of 08.00 – midnight.

- 6) The second floor of the appeal premises shall not be used for the sale or consumption of food or drink.
- 7) Before the use hereby permitted begins, a scheme for storage of waste within the site shall be submitted to and approved in writing by the Local Planning Authority and the scheme as approved shall be implemented.
- 8) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the Local Planning Authority and the scheme as approved shall be implemented. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
- 9) Before the development hereby permitted is brought into use, provision shall be made for the attenuation or reduction of noise generated within the premises in accordance with a scheme to be agreed with the local planning authority. This scheme shall include: all internal works; details of the sound system to be installed and provision for both use and maintenance in accordance with the manufacturer's specifications; measures to manage noise arising from the storage and transfer of bottles; measures to ensure that any electronically generated noise will cease immediately and automatically if fire escape doors are opened.
- 10) The premises shall be used as a mixed public house and restaurant and for no other purpose (including any other purpose in Classes A3 and A4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 11) No deliveries shall be taken at the premises outside the hours of 07.00 – 10.00 each day.


Inspector



APPEARANCES**FOR THE APPELLANT:**

Mr Paul Tunstall, BA (Hons) Dip TP, Associate Director, JWPC Ltd

MRTPI

Mr L Nichols

SCANNED

05 JUN 2006

FOR THE LOCAL PLANNING AUTHORITY:Mr J Ferguson BA (Hons) MTP,
MRTPISenior Planning Officer, Hartlepool Borough
Council**INTERESTED PERSONS:**

Mrs K Armstrong

Major Cooper Court, Seaton Carew

Mrs D Barclay

Major Cooper Court, Seaton Carew

Mr R Boarder

Major Cooper Court, Seaton Carew

DOCUMENTS:


Document	1	List of persons present at the hearing
Document	2	Letters of notification
Document	3	Letters of representation
Document	4	Policies GEP1, GEP9 Com18 and HE1 from the Hartlepool Local Plan Proposed Modifications September 2005

APPLICATION PLANS

Plan	A1	A4 Location Plan
Plan	A2	2477-04-002 Existing elevations Nos 12-25
Plan	A3	2477-04-003 Existing plans
Plan	A4	2477-04-004 Existing elevations Nos 15-17
Plan	A5	2477-04-005, Rev D Proposed Front Elevation Nos 15-17
Plan	A6	2477-04-007 Rev B Existing and proposed rear elevations Nos 14-17
Plan	A7	2477-04-0010, Rev E Proposed plans Nos 14 – 17
Plan	A8	Typical section through lobby
Plan	A9	Exterior floods, frontage

OTHER PLANS

Plan	B1	Possible delivery arrangements
Plan	B2	Licensed Plans

	<h2 style="margin: 0;">Costs Decision</h2> <p style="margin: 0;">Hearing held on 17 May 2006</p> <p style="margin: 0; color: red; font-weight: bold;">05 JUN 2006</p>	The Planning Inspectorate 4/11 Eagle Wing Temple Quay House 2 The Square Temple Quay Bristol BS1 6PN ☎ 0117 372 6372 e-mail: enquiries@planning-inspectorate.gsi.gov.uk
	<p style="margin: 0;">by Mrs K.A. Ellison BA(Hons), MPhil, MRTPI</p> <p style="margin: 0;">an Inspector appointed by the Secretary of State for Communities and Local Government</p>	Date: 05 JUN 2006

Costs application in relation to Appeal Ref: APP/H0724/A/05/1175435
15-17 The Front, Seaton Carew, Hartlepool TS25 1BS

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

Summary of Decision: The application fails and no award of costs is made.

The Submissions for Mr Nichols

1. The application is made with reference to Annex 1 paragraph 6 and Annex 3 paragraphs 7, 9 and 12 to the Circular. The Council's decision constituted unreasonable behaviour and has led the applicant to incur unnecessary expense since it should not have been necessary for the matter to be determined by the Secretary of State.
2. The application was appraised by technical officers and it was agreed that there would be no conflict with adopted planning policies. This was clearly explained in the reports to Committee. At the request of the Committee, the beer garden element was removed, on the logical assumption that this would satisfy concerns over the impact on residential amenity. Also, the applicant agreed to enter into a planning agreement relating to street cleansing and security on the terms set out by the Council.
3. Members did not undertake a site visit and no reasoned basis or supporting evidence has been given as to why they chose to disagree with the technical officers. Indeed, the Decision Notice fails even to make reference to policy Com 18 which relates specifically to food and drink proposals. Also, the second reason for refusal is pure speculation.
4. The planning officer's report and comments of the Environmental Health and Highways officers were a proper and fair assessment of the proposal. In considering the objections from neighbours, the Committee was distracted from the key issue of whether any real harm would be caused. This is regrettable and has led to a wholly unnecessary appeal.

The Response by Hartlepool Borough Council

5. The Council refutes the contention that its decision was unreasonable. It is true that the policies and advice in the report indicate that a bar/restaurant use might be acceptable but it does not follow that this application should have automatically been approved.
6. The relevant policies refer to whether the proposal would have a significant detrimental effect on amenity or highway safety. Having considered the report and the views of officers

and objectors, including representations made at Committee, Members took the view that the proposal would have a detrimental impact and it could not therefore be supported.

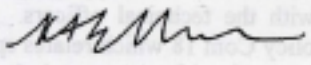
7. Members are entitled, as decision makers, to give different weight to relevant issues in reaching their decision if they consider it appropriate. The local planning authority has substantiated its reasons for refusal and those reasons have been corroborated by the views of residents in attendance at the Hearing. The Council therefore requests that no award of costs is made.

Conclusions

8. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
9. Given the proximity of residential properties and the presence of other licensed premises in the locality, it was not unreasonable, in my opinion, for the Council to attach the weight it did to the potential effect the proposal might have on nearby residents. Although the planning agreement might have helped deal with the aftermath of any unsocial behaviour, it would not have addressed wider concerns as to effect on amenity. In terms of highway safety, the lack of a designated servicing area raised the possibility of double parking and, indeed, I witnessed an example of it during my site inspection. Again therefore, I consider that it was a matter of judgement as to the weight to be attached to this point.
10. While the applicant may not agree with the weight that the Council gave to these matters, I consider that the case was arguable on each issue so that, in my view, the Council's behaviour was not unreasonable.

Formal Decision

11. I refuse the application for an award of costs.


Inspector

Report of: Assistant Director (Planning & Economic Development)

Subject: CONSERVATION AREA ADVISORY COMMITTEE

1. PURPOSE OF REPORT

- 1.1 To inform Planning Committee of the role of the Conservation Area Advisory Committee.

2. BACKGROUND

- 2.1 At the last meeting of the Planning Committee Members queried the role of the Conservation Area Advisory Committee. To clarify this matter attached in **Appendix 1** is a report that was agreed by the Regeneration and Liveability Portfolio Holder, which outlines the remit and membership of the Committee.
- 2.2 In addition the Portfolio Holder also agreed a Conservation Area Advisory Committee for the Headland Conservation Area. The final details of the Committee have yet to be finalised however attached in **Appendix 2** is the report agreed by the Portfolio Holder describing the remit and membership.

3 RECOMMENDATION

- 3.1 Committee notes the attached information

**REGENERATION AND LIVEABILITY PORTFOLIO
REPORT TO PORTFOLIO HOLDER
20th January 2006**



Report of: The Director of Regeneration and Planning Services

Subject: REMIT AND MEMBERSHIP OF THE PROPOSED
CONSERVATION AREA ADVISORY COMMITTEE

SUMMARY

1. PURPOSE OF REPORT

- 1.1 To provide confirmation of the membership of the proposed conservation area advisory committee and its proposed remit.

2. SUMMARY OF CONTENTS

- 2.1 The report outlines the membership of the conservation area advisory committee and the remit.

3. RELEVANCE TO PORTFOLIO MEMBER

- 3.1 Conservation policy falls within the Portfolio.

4. TYPE OF DECISION

- 4.1 Non-key.

5. DECISION MAKING ROUTE

- 5.1 Portfolio Holder only.

6. DECISION (S) REQUIRED

- 6.1 That the Portfolio Holder approves the membership and remit outlined in the report and authorises officers to organise an initial meeting of the committee.

Report of: The Director of Regeneration and Planning Services

Subject: REMIT AND MEMBERSHIP OF CONSERVATION
AREA ADVISORY COMMITTEE

1. PURPOSE OF REPORT

- 1.1 To provide confirmation of the membership of the proposed conservation area advisory committee and its proposed remit.

2. BACKGROUND

- 2.1 The Portfolio Holder has received two previous reports on the subject of the proposed conservation area advisory committee. The first outlined research carried out into committees elsewhere in the north of England. The second suggested a possible remit for the committee with an emphasis on strategic issues rather than individual planning applications, and outlined organisations which might be considered as potential Committee members.
- 2.2 Those Councillors who represent wards with conservation areas located in have been consulted regarding the proposed membership and remit of the committee. In addition, consultation with the Headland Residents Association is scheduled via a meeting on 10th January. Subject to the responses from those consultations the purpose of this report is to provide information on the final proposed membership of the committee and remit.

3 MEMBERSHIP OF CONSERVATION AREA ADVISORY COMMITTEE

- 3.1 Having taken soundings of potential member organisations, it is suggested that the membership of the committee comprises the following representatives, all of whom have expressed willingness to be involved,

Member representation

The Portfolio Holder
Chair of Planning Committee

Professional representation

Royal Institute of British Architects (RIBA)
Royal Institute of Chartered Surveyors (RICS)

Amenity groups

Civic Society
Hartlepool Archaeological Society
Society for Protection of Ancient Buildings (SPAB)

Victorian Society

Parish Councils

Greatham Parish Council

Headland Parish Council

Local resident / Business representatives

Headland Residents Association

Seaton Carew Renewal Advisory Group (SCRAG)

3.2 It is suggested that should new resident, business or amenity groups be established in the future they can be invited to join the CAAC with the agreement of the members of the committee at the time.

3.3 I shall comment further in the light of the outcome from the consultations referred to at 2.2, at the meeting.

4 REMIT

4.1 It is proposed that strategic issues to be considered by the Committee should include

- Policy
- Conservation Area Appraisals
- Development Briefs
- Awareness raising on Conservation Areas
- Grant Schemes.
-

5 RECOMMENDATION

5.1 That the Portfolio Holder approves the membership and remit outlined in the report and authorises officers to organise an initial meeting of the committee.

**REGENERATION AND LIVEABILITY PORTFOLIO
REPORT TO PORTFOLIO HOLDER
21ST APRIL 2006**



Report of: The Director of Regeneration and Planning Services

Subject: PROPOSED HEADLAND CONSERVATION AREA
ADVISORY COMMITTEE

SUMMARY

1. PURPOSE OF REPORT

- 1.1 To provide information on investigations into a proposed Headland Conservation Area Advisory Committee.

2. SUMMARY OF CONTENTS

- 2.1 The report outlines the investigations that have been carried out and the information obtained, from the Headland Parish Council and two Residents Associations on the potential remit and composition of a CAAC

3. RELEVANCE TO PORTFOLIO MEMBER

- 3.1 Conservation policy falls within the Portfolio.

5. TYPE OF DECISION

- 4.1 Non-key.

5. DECISION MAKING ROUTE

- 5.2 Portfolio Holder only.

6. DECISION (S) REQUIRED

- 6.1 That the Portfolio Holder notes the response to the request for further information and instructs officers on progressing the matter.

Report of: The Director of Regeneration and Planning Services

Subject: PROPOSED HEADLAND CONSERVATION AREA
ADVISORY COMMITTEE

1. PURPOSE OF REPORT

- 1.1 To provide information on investigations into a proposed Headland Conservation Area Advisory Committee (CAAC).

2. BACKGROUND

2.3 At the Portfolio Holder Meeting in January the Headland Residents Association requested that a Conservation Area Advisory Committee be set up specifically for the Headland. The Portfolio Holder requested that officers investigate this proposal further by writing to the Headland Residents Association and the Headland Parish Council.

- 2.2 Further information was requested from both groups on three issues. These were;
- Which groups, societies or individuals would potentially be involved in the committee?
 - What remit is envisaged for the committee?
 - How would a Headland CAAC relate to a Borough wide CAAC?

3 RESPONSE TO REQUEST FOR INFORMATION

3.1 The Headland Residents Association provided further information on their initial request for a Headland CAAC (**see Appendix 1**). They suggested that a Headland CAAC should have the same brief as the town wide committee. The town wide CAAC has a strategic remit considering issues including policy, conservation area appraisals, development briefs, awareness raising on conservation areas and grant schemes. The residents association stress that such a committee would, 'in no way be seen as subordinate to the town wide committee.'

- 3.2 With regard to membership of the committee the Headland Residents Association have suggested that it should have representatives from the following groups;
- The residents association
 - Parish Council
 - Headland churches
 - Headland History Society
 - Headland based businesses should they wish to participate.

- 3.3 The Parish Council have expressed very similar views to those of the Headland Residents Association. The Chairman of the Parish Council, in his capacity as a ward councillor, has made further comments about the importance of local representation and consultation and reporting arrangements with the Portfolio Holder and the townwide CAAC (**see Appendix 2**).
- 3.4 Princess Residents Association are a residents association based around Cliff Terrace in the Headland. They have expressed an interest in being involved in the town wide CAAC and were therefore also consulted on the proposed Headland CAAC. They feel that the Headland Committee should have a majority of Headland residents sitting on it. However they suggest that, as the group would be 'for the good of the Headland' the potential voluntary group representation should be broadened, to include representatives such as the Schools Parent Teacher Association and the Headland Development Trust (**see Appendix 3**).
- 3.5 Taking account, therefore, of the responses from the Headland and the Princess Residents Associations and the Parish Council, the following points emerge for any Headland CAAC:

- a strategic remit in line with the Borough-wide CAAC (as in para 3.2)
- composed mainly of residents and organisations located within the Headland
- potential representation from

Headland Residents Association
 Princess Residents Association
 Headland Parish Council
 Headland churches
 Headland History Society
 Schools Parent Teacher Association
 Headland Development Trust
 Headland businesses

As well as the organisations mentioned, there could be scope for the Committee to include other relevant groups with conservation interests, e.g. Heugh Battery Trust.

- 3.6 As the Portfolio Holder will recall, the Borough-wide CAAC includes, as well as representatives of individual areas, the Planning Committee Chairman and representatives of relevant professional bodies and amenity groups, ie. Royal Institute of British Architects, Royal Institute of Chartered Surveyors, Hartlepool Civic Society, Hartlepool Archaeological Society, Society for Protection of Ancient Buildings and Victorian Society. Whilst the involvement of all these representatives within a Headland CAAC as well as a Borough-wide CAAC may not be essential or practicable, there could be benefit in

having input from the Council and/or some or all of these other organisations by invitation, dependent on the issues under discussion.

4 RECOMMENDATION

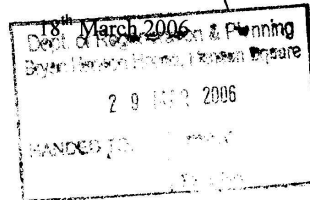
- 4.1 That the Portfolio Holder notes the response to the request for further information and instructs officers on progressing the matter.

APPENDIX 1

Hartlepool Council
Regeneration and Planning
Bryan Hanson House
Hartlepool
TS24 7BT

FAO Sarah Scarr

Headland Residents Association
7 Beaconsfield Square
Hartlepool
TS24 0PA



Dear Ms Scarr,

At the recent meeting of the Headland Residents' Association, the principle item of business was the proposed Conservation Area Advisory Committee.

The meeting agreed to nominate a representative to attend the Committee and Ms Julie Bone, 2 Gladstone Street, TS24 0PE was elected to undertake the role. Please address all future correspondence regarding the CAAC to Ms.Bone.

The meeting continued to call for a dedicated committee purely for the Headland Conservation Area and which would be composed mainly of residents and organisations located within the Conservation Area. The meeting agreed that as Chairman of the Association I should write to the Council to suggest the Headland Committee should have the same brief as the town wide committee and would in no way be seen as subordinate to the town wide committee. The Residents Association initial thoughts were that the Headland Committee should consist of representatives from the Resident Association, Parish Council, the Headland Churches and the Headland History Society. Other interested parties, such as Headland based businesses, may also like to participate.

The feeling of the meeting was at first that we were being pushed to one side and would be swamped in a town wide committee. However, if the Headland were also to get a dedicated committee looking just at Headland Conservation Area issues then this would be most welcome. The message needs to be pushed through to the CAAC that the residents have to actually live in this area and while Conservation may be nice for outsiders to look at it isn't that pleasant to be forced to live with the health issues and financial consequences that come from being held back in the past.

Yours truly,

Stephen Allison
Chairman, HRA

Copy Ms.J.Bone, 2 Gladstone Street.
Ms. R.Cannell (Secretary HRA), 20 Beaconsfield Street.

05 Apr 06 10:34

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Headland Parish Council

Parish Council Office

Borough Buildings

Hartlepool

TS24 0JD

Tel: 01429 244078

Chairman: Derek Allison

Mobile 07530655700

Email: derek.allison1@btworld.com

CH. DEPT. OF THE GOV. DEPT.
HARTLEPOOL
- 5 APR 2006
PASSED TO.....
DEALT WITH.....
FILE NO.....

Mayor Stuart Drummond
Civic centre
Hartlepool
TS24 8AY
30 March 2005.

Dear Stuart:

In reply to your letter of the 27 February last regarding the appraisal of the Headland Conservation Area and possible Headland Conservation Advisory Committee.

The Parish Council met on the 29 March and it was agreed to nominate Ms Pat Andrews to represent us on the town wide advisory committee and suggest she is contacted at her home address with information on meetings.

Pat's address is 7 Alfred Street, The Headland, TS24 0NU. Tel No. 01429235008.

The proposed Headland CAAC was also discussed and it was agreed that this would be a welcome move particularly since the Headland is the oldest and largest, in conservation terms, in the town.

There was agreement that this committee should not be subordinate to the town wide CAAC and should have the same terms of reference but for the Headland alone.

The membership was discussed and it was thought that it should consist of representatives from the community such as Parish Council, Headland Residents Association and other bodies on the Headland concerned with Conservation e.g. Churches, History Society and possibly business interests.

The feeling was that the membership should be local people and should not include professional organisations and that this committee should be the focal point through which the consultants work when carrying out the appraisal.

The Parish Council agreed it would put forward Councillor Mrs Gillian Drury as its representative if this idea goes ahead.

As a ward councillor I agree totally with the Parish Council views.

I would further suggest that this committee, being resident based and not loaded with professional bodies, would give valuable grass roots input to this debate about the real problems people face actually living in conservation areas.

I also think the remit should include consultation with local people, something missed out of the town wide CAAC remit and it (the committee) should report directly to you as the Portfolio holder.

D:\My Documents\Politics\Parish\Letters\Conservation\To Mayor re committee members.doc

05 Apr 06 10:34

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APPENDIX 2

• Page 2

April 1, 2006

This local body would not conflict with the town committee remit which is much wider strategically and includes professional bodies with their own previously fixed and stated agenda in relation to conservation issues.

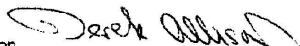
In my opinion the inclusion of those bodies who already have fixed views detracts from the possibility of real interaction with those who live in conservation areas and who have already been acquainted with the consequences of those views.

It would of course be beneficial if the two bodies were to operate with mutual exchange of information and ideas but neither being subordinate to the other, each having its own unique identity and purpose.

I am happy to discuss this further if you wish.

Yours sincerely

Derek Allison



Copies to :-

Cllr John Marshall
Cllr John Cambridge
Stephen Allison, Chairman Headland Residents Association.

**Princess
Residents
Association**

PRA

APPENDIX 3

42830

17th March 2006

Ms. Sarah Scarr
Landscape Planning and Conservation Manager
Regeneration and Planning Services
Bryan Hanson House
Hanson Square
Hartlepool

Dear Ms. Scarr,

Proposed Headland Conservation Area Advisory Committee
Your Ref. DX 0669 – 1

I am sorry for the delay in writing to you. However, I received your letter after the Association's February 2006 meeting and, therefore, I had no alternative but to address your letter at the Association's March 2006 meeting. The opinion of the members present was unanimous that we, as an Association, should have representation on the CAAC.

As I have already explained, during our last telephone conversation, I was concerned as to the lack of our Association's involvement in the setting up of the Advisory Committee, considering we are a formal fully constituted Residents' Association, and have received funding from Hartlepool Council for the past two years. I find it difficult to believe that, due to an oversight, we are now in a position where we have to be considered by the present committee for eligibility to participate on the CAAC.

However, if we are to move forward, then let us put the past behind us. The Princess Residents' Association was established with the aim of developing projects specific to the area, since no immediate funding was available through Hartlepool Borough Council for the installation of railings, in line with the original design of houses, as well as traffic management. We do, however, keep officers of Hartlepool Borough Council informed at every stage of the way.

- continued p/2 -

APPENDIX 3

- 2 -

The Association was initially set up to encompass the areas bounded by the rear street known as Princess Street, but within the constitution there is scope to expand this area as the need arises. However, it was felt at the time that we must proceed as quickly as possible hence the aforementioned area.

My individual background is in Project Management. Whilst living in Buckinghamshire I was chairman of a local village Parish Council for eight years. When I came back to my home town of Hartlepool, I wished to participate in some voluntary activities. I was confused as to the set up of local groups and their interface with Hartlepool Borough Council. At the time I had a meeting with Janet Barker. My main question to her was that all local groups seem to do their own thing, with funding being given, but that each group was not subject to reporting to one central body like Hartlepool Borough Council. In addition, I was aware the individual groups did not communicate with each other; in fact, in some cases publicly criticising each other. My views were what a waste of valuable volunteer time and effort in addition to what was inevitable inefficient spending of funds available.

As the Hartlepool area in general develops, it is apparent that we must all take ownership of the project tasks ahead of us. I agree with the comments that the Headland Committee should be made up with a majority of Headland residents. However, let us not forget the large impact that the future Victoria Harbour will have on the Headland. ALL volunteer groups should be able to participate without any "Hidden Agendas"; let us be honest, the CAAC is for the good of the Headland and representatives such as the Schools Parent Teacher Association, and The Headland Development Trust should be involved. The chair of the committee should always be the Portfolio Holder as a duly public elected representative of Hartlepool Borough Council.

In closing, my own personal views are quite clear. There is a need to maintain part of the Headland (Old Hartlepool) Borough that will represent our heritage for the education of the next generation. This can only be achieved if we stop the exploitation of old buildings for business profiteering. The achievement of such can only lead to a greater development of tourism in the area which will lead to small enterprises developing trade and employment for the area.

I trust that this letter gives you the clear views of not only myself but of a representative body known as the Princess Residents Association.

Yours sincerely,



pp **Ron Clark**
Chairperson