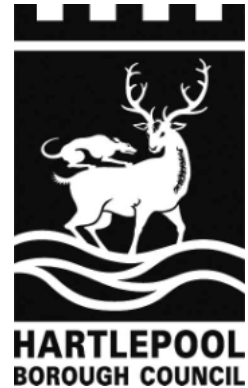


# PLANNING COMMITTEE AGENDA



**Friday 2 March 2012**

**at 10.00 a.m.**

**in the Council Chamber,  
Civic Centre, Hartlepool.**

## MEMBERS OF PLANNING COMMITTEE:

Councillors Barclay, Brash, Cook, Fenwick, James, Lawton, A Lilley, G Lilley, Morris, Richardson, Robinson, Shields, Simmons, Sirs, H Thompson, P Thompson, Wells and Wright.

### **1. APOLOGIES FOR ABSENCE**

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

### **3. TO CONFIRM THE MINUTES OF THE MEETING HELD ON 3 FEBRUARY 2012**

### **4. ITEMS REQUIRING DECISION**

- 4.1 Planning Applications – *Assistant Director (Regeneration and Planning)*
  - 1. H/2011/0643 Land at Greatham Creek, Greatham (*page 1*)
  - 2. H/2012/0029 Stranton Garden Nursery, Tanfield Road, Hartlepool (*page 13*)
  - 3. H/2012/0015 Town Wall, South Crescent, Headland, Hartlepool (*page 22*)
  - 4. H/2012/0056 Former Focus DIY Store, Lynn Street, Hartlepool (*page 26*)
  - 5. H/2011/0614 72 The Front, Seaton Carew, Hartlepool (*page 31*)
- 4.2 Appeal Ref: APP/H0724/A/11/2161037 Site at: The Grange, Piercy Farm, Dalton Piercy, Hartlepool – *Assistant Director (Regeneration and Planning)*
- 4.3 Appeal Ref: APP/H0724/C/11/2164176 Unauthorised Erection of a Garage to Front of Property Cameron Lodge, Serpentine Road, Hartlepool – *Assistant Director (Regeneration and Planning)*
- 4.4 Appeal Ref: APP/H0724/A/11/2162025 Joe's Skips, Brenda Road, Hartlepool – *Assistant Director (Regeneration and Planning)*
- 4.5 Update on Current Complaints – *Assistant Director (Regeneration and Planning)*

5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**
6. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006**

### **EXEMPT ITEMS**

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

### **7 ITEMS REQUIRING DECISION**

- 7.1 Complaint Files to be Closed - 1 Whittrout Road – *Assistant Director (Regeneration and Planning)* (exemption paragraphs 5 & 6)
- 7.2 Enforcement Action: 72 The Front, Seaton Carew – *Assistant Director (Regeneration and Planning)* (exemption paragraphs 5 & 6)
- 7.3 Enforcement Action – 301 Stockton Road, Hartlepool – *Assistant Director (Regeneration and Planning)* (exemption paragraphs 5 & 6)

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

### **FOR INFORMATION**

Any site visits requested by the Committee at this meeting will take place at 9.00 a.m. on the morning of the next Scheduled Meeting which will commence at 10.00 a.m. Friday 30 March 2012.

# **PLANNING COMMITTEE**

## **MINUTES AND DECISION RECORD**

3 February 2012

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

**Present:**

Councillor Rob Cook (In the Chair)

Councillors Allan Barclay, Marjorie James, Trisha Lawton, Alison Lilley, Geoff Lilley, Dr George Morris, Carl Richardson, Jean Robinson, Linda Shields, Hilary Thompson, Paul Thompson, Ray Wells and Edna Wright.

Also Present: In accordance with Council Procedure Rule 4.2 the following substitutions were in effect: -  
Councillor Sheila Griffin for Councillor Chris Simmons.

Councillors Hill, Loynes and Turner.

Officers: Damien Wilson, Assistant Director, Regeneration and Planning  
Chris Pipe, Planning Services Manager  
Jim Ferguson, Principal Planning Officer  
Andy Carter, Senior Planning Officer  
Matthew King, Principal Planning Officer  
Sarah Scarr, Landscape Planning and Conservation Manager  
Ian Bond, Ecologist  
Adrian Hurst, Principal Environmental Health Officer  
Mike Blair, Highways, Traffic and Transportation Manager  
Kate Watchorn, Commercial Solicitor  
David Cosgrove, Democratic Services Team

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

Councillors Brash, Fenwick and Simmons.

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

Councillor P Thompson and Lawton declared personal interests in Minute no. 122.

Councillor Wells declared a personal interest in Minute No. 123.

## 121. Confirmation of the minutes of the meeting held on 6 January 2012

Confirmed.

## 122. Planning Applications *(Assistant Director, Regeneration and Planning)*

The Assistant Director, Regeneration and Planning submitted the following planning applications for determination.

<b>Number:</b>	H/2011/0598
<b>Applicant:</b>	Mr Chris McHale The Granary Gosden Common Bramley
<b>Agent:</b>	ASP Associates David Loughrey Vega House 8 Grange Road Hartlepool
<b>Date received:</b>	22/11/2011
<b>Development:</b>	Alterations and change of use from nursing home to 28 no bed students accommodation (hall of residence) (C1 Use) including alterations to windows, doors and roof lights
<b>Location:</b>	16 HUTTON AVENUE HARTLEPOOL
<b>Decision:</b>	<b>Planning Permission Refused</b>

### CONDITIONS AND REASONS

1. It is considered by the Local Planning Authority that the proposed student accommodation would have an adverse effect on the character of the Grange Conservation Area contrary to policies GEP1 and HE1 of the adopted Hartlepool Local Plan 2006.
2. It is considered by the Local Planning Authority that the proposed student accommodation would have an adverse effect on the amenities of the neighbouring residential properties by virtue of noise and disturbance contrary to Policy GEP1 of the adopted Hartlepool Local Plan 2006.
3. It is considered by the Local Planning Authority that adequate on site parking facilities cannot be provided and that parking by the occupants of the proposed student accommodation and/or any visitors would of necessity have to take place on the road, away from the application site to the detriment of highway safety and the amenities of the occupiers of housing in this predominantly residential area, contrary to policy GEP1 of the adopted Hartlepool Local Plan 2006.

The Committee considered written representations in relation to this matter.

The applicant's agent, Mr D Loughrey, and an objector, Mr D Bentham, were present at the meeting and addressed the Committee.

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<b>Number:</b>	H/2011/0489
<b>Applicant:</b>	MR CHRIS STRUTHERS PERSIMMON HOMES (TEESSIDE) 2 ESH PLAZA SIR BOBBY ROBSON WAY GREAT PARK
<b>Agent:</b>	PERSIMMON HOMES (TEESSIDE) MR CHRIS STRUTHERS 2 ESH PLAZA SIR BOBBY ROSON WAY GREAT PARK
<b>Date received:</b>	28/10/2011
<b>Development:</b>	Mixed use development for the erection of 244 dwellings and the redevelopment of the Mayfair Centre to incorporate D2, A1, A3 and A4 uses including erection of two air domes, alterations to shop and Mayfair Centre building including new balcony, alterations to car park, formation of various mounds, formation of golf course, childrens play areas, new lighting, alterations to vehicular entrance and landscaping including amenity open space
<b>Location:</b>	THE MAYFAIR CENTRE TEES ROAD HARTLEPOOL
<b>Decision:</b>	<b>Minded to APPROVE subject to referral to the Secretary of State as required under the provisions of the Town and Country Planning (Consultation) (England) Direction 2009; and the completion of an appropriate legal agreement securing the phasing and delivery of the Sports and Leisure development, management and provision of Public Open Space, treatment of adjacent sports pitches, affordable housing/affordable housing contribution, an Emergency Planning Contribution, a contribution towards the monitoring of the agreement and the completion of a playing pitch strategy and if necessary a strategy to identifying a replacement playing pitch strategy. Any subsequent requirements to amend conditions, or the terms of the legal agreement, are</b>

**delegated to the Planning Services Manager in consultation with the Chair of the Planning Committee.**

## **CONDITIONS AND REASONS**

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. The development hereby permitted shall be carried out in accordance with the details and plans SC-000 (Site Location Plan), BM/SC/220/01 (Existing Area Plan), BM/SC/220/07 (Proposed & Existing External Elevations of Retail Shop), BM/SC/220/09 (Proposed canopy details), BM/SC/220/10 (Proposed typical door & window sections), BM/SC/220/011 (Proposed door & window elevations), BM/SC/220/14 (Existing Plans of retail shop), CD-WD01 Rev C (Chedworth), CC-WD01 (Chedworth Corner), CN-WD01 Rev D (Clandon), CV-WD01 Rev A (The Clevedon), CR-WD01 Rev D (Crathorne), HB-WD01 Rev J (Hanbury), HBC-WD01 (Hanbury Corner), HT-WD01 Rev E (Hatfield), HTC-WD01 Rev B (Hatfield Comer), RS-WD01 Rev G (Roseberry), RF-WD01 Rev H (Rufford), SU-WD01 Rev G (Souter), WS-WD01 Rev D (Winster) received by the Local Planning Authority at the time the application was made valid, as amended in relation to the existing and proposed plans of the Mayfair Centre by the drawings BM/SC/220/04 (Existing Elevations), BM/SC/220/05 (Proposed Mayfair Building Elevations), BM/SC/220/06 (Proposed Ground and First Floor Layouts), BM/SC/220/08 (Proposed Balcony Details), BM/SC/220/13 (Existing ground and first floor layouts) received at the Local Planning Authority on 23rd December 2011, as amended by the plans SGD-01 RevB (Typical Single & Double Garage Details), 22.360661.001 Rev P1 (Standard Distribution Sub Station Drawing), ENG-Pumping Stn (Pumping Station) received at the Local Planning Authority on 11th January 2012, as also amended except in respect to the proposed housing layout (see below) by the drawings BM/SC/220/02B (Proposed Area Masterplan), BM/SC/220/03B (Proposed General Layout Leisure Complex), 11147/01 RevE (Proposed Site Access Ghost Island), ENG-N&E Sections (Northern & Western Boundaries Site Sections), ENG-N Sections (Further Northern Boundary Site Sections), SGD-10 (Non Standard Garage Arrangments), PA31/3/PL2-B (DENFORD), PA31/3/PL1-B (DENFORD), PA46/PL2-A (PETFORD), PA46/PL1-A (PETFORD), PD33/3/PL2 (ARDINGHAM), PD33/3/PL1 (ARDINGHAM), PD41/3/PL2-B (BISHAM), PD41/3/PL1-B (BISHAM), PD48/3/PL2 (BRADENHAM), PD48/3/PL1 (BRADENHAM), PD410/3/PL2 (EYNHAM), PD410/3/PL1 (EYNHAM), GARAGES/PL1 (GARAGE DETAILS) received at the Local Planning Authority on 26th January 2012, as amended in relation to the floor plans and elevations of the domes by the drawings AA1.01 Revision 3, AA1.02 Revision 3, AA2.01 Revision 3, AA2.02 Revision 3, AA2.03 Revision 3 and AA2.04 Revision 3 received at the Local Planning

Authority on 1st February 2012, as amended by the drawing SC-001Rev E (proposed housing layout) received at the Local Planning Authority on 1st February 2012 unless otherwise agreed in writing by the Local Planning Authority.

For the avoidance of doubt.

3. The permission hereby granted shall permit the phased development of the site and unless otherwise indicated all other conditions shall be construed accordingly. If the site is developed on a phased basis, a phasing plan shall be first submitted to and approved in writing by the Local Planning Authority. The applicant shall provide with each phase the relevant details required by the conditions below for approval by the Local Planning Authority at the time indicated in the condition, such approval to be in writing. In terms of the housing phases the applicant shall also provide details as to how the phase will be managed so as to limit disturbance to neighbouring residents.

For the avoidance of doubt and in the interests of the amenity of neighbouring residents.

4. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose. Thereafter the development shall be carried out in accordance with the approved details.

In the interests of visual amenity.

5. Notwithstanding the details submitted a detailed scheme of landscaping, including mounding 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 the construction details of the mounds, 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.

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

In the interests of visual amenity.

7. Prior to the commencement of the housing development hereby approved details of the proposed emergency access from Headingly Court including details of construction and surface treatments, accommodation for pedestrians and cyclists, enclosures and details of the proposed measures to manage access and to control the unauthorised use of the access by vehicles shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance

of doubt in terms of its use by vehicles this access shall function as an emergency access only at the discretion of the Local Planning Authority.

In the interests of highway safety.

9. Notwithstanding the travel plan information submitted, baseline surveys to establish travel patterns shall be carried out within 6 months of the Sports and Leisure development hereby approved being brought into use, and within 6 months of the first occupation of the housing development hereby approved, in accordance with schemes first submitted to and approved in writing by the Local Planning Authority. Final travel plans shall thereafter be developed and submitted to the Local Planning Authority for approval within six months of the approval of the base line survey scheme. Evidence of the Travel Plans implementation over a minimum period of 12 months following approval of the Final Travel Plans shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter, the Travel Plans shall be implemented in accordance with the approved details or any changes made under the review process.  
In order to encourage Travel by means of transport other than the car.
10. Prior to either any part of the Sports & Leisure development hereby approved being brought into use, or the first occupation of the housing hereby approved, the two new bus stops, associated footway, crossing point and pedestrian refuge shown on drawing 11147/01 Rev E (Proposed Site Access Ghost Island) shall be provided, in accordance with details first submitted to and approved in writing by the Local Planning Authority and the existing bus stops in the vicinity of the site shall be removed in accordance with a scheme agreed in writing by the Local Planning Authority.  
In the interests of highway safety and to encourage the use of means of transport other than the motor car.
11. Prior to the first occupation of any part of the housing development hereby approved a scheme for the reduction of the speed limit on Tees Road from 60 mph to 40 mph, and to secure a 20mph limit on the estate road as it approaches the Tees Road, including required signage, shall be implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority.  
In the interests of highway safety.
12. Prior to the first occupation of any part of the housing development hereby approved a scheme for the reversion of the shared footway, between the proposed bus stop on Tees Road and Elizabeth Way, to pedestrians use only, including the removal of any relevant signs shall be implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority.  
In the interests of highway safety.
13. No development of the housing site hereby approved shall take place until the access road onto Tees Road has been implemented in accordance with the details shown on drawing 11147/01 Rev E (Proposed Site Access Ghost Island) to the satisfaction of the Local Planning Authority. All construction traffic shall thereafter use this access only to access the site.



- In the interests of highway safety and the amenity of neighbouring properties.
14. Prior to the first occupation of any part of the housing development hereby approved street lighting shall be provided on Tees Road in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.  
In the interests of highway safety and in order to ensure any impact on the adjacent SPA is minimised.
  15. Details of lighting proposals in areas of the housing site not to be the subject of adoption by the Local Planning Authority shall be submitted to and agreed in writing by the Local Planning Authority. The lighting proposals shall thereafter be implemented at the time of development and retained for the lifetime of the development unless some variation is subsequently approved in writing by the Local Planning Authority.  
In order to ensure that adequate provision is made in the interests of amenity and security.
  16. The surfacing of all private parking areas, drives and access roads (i.e roads not to be adopted) shall be in hard bound materials in accordance with a specification first submitted to and approved in writing with the Local Planning Authority.  
In order to ensure treatments proposed are acceptable in the interests of amenity and highway safety.
  17. The development hereby approved shall be carried out having regard to the following:
    1. Site Characterisation  
An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
      - (i) a survey of the extent, scale and nature of contamination;
      - (ii) an assessment of the potential risks to:
        - a. human health,
        - b. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
        - c. adjoining land,
        - d. groundwaters and surface waters,
        - e. ecological systems,
        - f. archeological sites and ancient monuments;
      - (iii) an appraisal of remedial options, and proposal of the preferred option(s).
 This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
    2. Submission of Remediation Scheme

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

### 3. Implementation of Approved Remediation Scheme

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

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

### 4. Reporting of Unexpected Contamination

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

Following completion of measures identified in the approved remediation scheme a validation report must be prepared in accordance with 3 (Implementation of Approved Remediation Scheme) above, which is subject to the approval in writing of the Local Planning Authority.

### 5. Long Term Monitoring and Maintenance

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

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

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

### 6. Extensions and other Development Affecting Dwellings.

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

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

18. The development hereby permitted shall not be commenced until such time as a scheme for surface water management has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.  
To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
19. No construction works shall take place outside the hours of 07:00hrs to 18:00hrs Monday to Friday and 07:00hrs to 13:00hrs on a Saturday. No construction works shall take place on Sundays or Bank Holidays. In the interests of the amenities of the occupants of neighbouring properties.
20. Notwithstanding the details submitted in support of the application details of all walls, fences and other means of boundary enclosure including ball netting shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced. Thereafter the development shall be carried out in accordance with the approved details.  
In the interests of visual amenity.
21. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority. Roof water shall not pass through the interceptor.  
To prevent pollution of the water environment.
22. Prior to the commencement of the housing development hereby approved a scheme for the provision of sound insulation to all habitable rooms to specific properties agreed with the Local Planning Authority, which will result in a minimum attenuation of 40dB(Dn,ew), shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall thereafter be installed and maintained in accordance with the agreed scheme for the lifetime of the

development.

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

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

To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property. To ensure any risk of contamination can be addressed.

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

To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property. To ensure any risk of contamination can be addressed.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no additional windows(s) shall be inserted in the gable elevation facing the boundaries of the site of the houses on plots 88, 114, and 147 without the prior written consent of the Local Planning Authority.

To prevent overlooking.

26. The housing shall have a minimum finished floor level of 4.605m AOD. In order to ensure the development is protected against any possible long term flooding issues.

27. The golf and football dome buildings hereby approved shall be removed from the site and the land restored to its former condition on or before 30th June 2027 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority unless prior consent has been obtained to an extension of this period.

The buildings are not considered suitable for permanent retention on the site.

28. The use of the domes shall be restricted to sporting uses only and they shall not be used for any other form of entertainment. No music shall be played, or public address/ tannoy systems shall be installed or used in either of the domes.

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

29. The football dome and golf dome shall only be open to the public between the hours of 09:00 hrs and 22:00 hrs Monday to Sunday (inclusive).

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

30. All external lighting and flood lighting to the Sports & Leisure Development hereby approved shall be installed and maintained in compliance with the lighting assessment submitted with the application and shall be provided and maintained to operate within the parameters

of Environment Zone 3. Light trespass into windows in the residential development shall not exceed 10 Ev(Lux) prior to 22:00hrs and 1 Ev(Lux) after 22:00hrs.

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

31. The occupation of the bungalow on site shall be restricted to a person employed at the Sports & Leisure Complex also located on the site or a dependent of such a person residing with him or her.  
It is not considered, given the relationship between the Bungalow and other building/activities on the site, that the independent occupation of the Bungalow would be acceptable.
32. The area(s) indicated for pathways, car, coach and cycle parking serving the Sports & Leisure development shown on drawing BM/SC/220/03B received at the Local Planning Authority on 26th January 2011 shall be provided and laid out in accordance with that approved plan before the use of the Sports & Leisure Development commences and thereafter be kept available for such use at all times during the lifetime of the development. The pathways, parking areas shall be surfaced and marked out, and the cycle parking facilities provided, in accordance with a specification first submitted to and approved in writing by the Local Planning Authority.  
In the interests of the highway safety.
33. Prior to its installation details of all plant serving the domes shall be submitted to and approved in writing by the Local Planning Authority.  
In the interests of the amenities of the occupants of neighbouring properties and visual amenity.
34. Retail sales from the site shall be restricted to the building identified as the "Existing Shop" on drawing BM/SC/220/03B received at the Local Planning Authority on 26th January 2012. In terms of retail sales this building shall be used only for the sale of goods associated with the use of the part of the site on which it is located as a Sports & Leisure complex. Its use shall remain ancillary to the main use of this part of the site as a Sports and Leisure complex and it shall not be used as a retail outlet for general goods or articles without the prior consent of the Local Planning Authority.  
For the avoidance of doubt and in the interests of the vitality and viability of nearby town centres.
35. Prior to its installation details of the play equipment to be installed in the play area, identified on drawing BM/SC/220/03B received at the Local Planning Authority on 26th January 2012, shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall thereafter be installed in accordance with the approved details.  
In the interests of visual amenity.
36. Prior to its laying out the details of the proposed snagging course, including any protective measures, shall be submitted to and approved in writing by the Local Planning Authority.  
No details of the snagging course have been provided. For the avoidance of doubt and in the interests of highway safety and residential amenity.

37. The development shall proceed in accordance with the mitigation requirements outlined in section D4 of the report entitled "An extended phase 1 and protected species survey of land at Seaton Carew" Revision R04 received at the Local Planning Authority on 5th January 2012 unless some variation to the mitigation requirements is otherwise agreed in writing by the Local Planning Authority.  
In order to ensure ecological impacts arising from the development are mitigated against.
38. Any vegetation removal, including semi improved grassland and hedgerow habitat, will not be undertaken during the breeding bird season (March to August inclusive) unless an appropriately qualified ecologist concludes nests to be absent.  
In the interest of the ecology of the site.
39. External construction works for the sports facilities will not be undertaken during the November to February period inclusive (winter period). For the avoidance of doubt if the external structures are complete, internal works can continue over the winter period.  
In the interest of ecology.
40. The start of earthworks for the housing construction will not be undertaken during the winter period (November to February inclusive). Thereafter for works within 100m of areas of open grassland suitable for feeding waders, as agreed in writing by the Local Planning Authority, construction hoardings to 1.8m in height will be put in place prior to any external construction works during the winter period.  
In the interests of ecology.
41. Prior to the commencement of development a scheme for a programme of ecological monitoring during the construction and first year of operation of the Sports & Leisure facilities hereby approved shall be submitted to and agreed in writing with the Local Planning Authority. The monitoring scheme shall thereafter be undertaken in accordance with the agreed scheme.  
In the interest of ecology.
42. Prior to the commencement of development a scheme for the long term management regime of areas of open space within the site shall be submitted to and agreed in writing with the Local Planning Authority. This shall include a plan identifying the areas referred to in section D4 of the report entitled "An extended phase 1 and protected species survey of land at Seaton Carew" Revision R04 received at the Local Planning Authority on 5th January 2012 from which sport and other activity likely to disturb wildlife will be excluded in the winter period (November to February Inclusive) The areas shall thereafter be used and managed in accordance with the agreed scheme unless some variation is subsequently agreed in writing with the Local Planning Authority.  
In the interest of ecology.
43. Prior to the occupation of the 1st dwelling a Playing Pitch Strategy shall be undertaken by Hartlepool Borough Council, thereafter a strategy to identify replacement provision for the allocated playing field site ( if the need for the additional allocated land is confirmed in whole or in part by the PPS ) by a site or sites shall be submitted to and approved by the

- LPA prior to the occupation of the 100th dwelling.  
In order to ensure where necessary adequate allocations for sports pitches are retained in the long term.
44. The surface specification for the indoor football dome shall meet the laboratory test level for the FIFA 1 star performance standard equivalent for small sided pitches and should be field tested in accordance with BS EN 15330-1. Prior to the commencement of the football dome the proposed surface specification shall be submitted to the Local Planning Authority for approval and thereafter installed in accordance with the agreed specification.  
In order to ensure the playing surface is to the required specification.
45. Once installed the surface of the artificial grass pitches in the Football Dome hereby approved shall not be changed without the agreement in writing of the Local Planning Authority.  
In order to ensure the scheme continues to provide an acceptable level of sporting provision.
46. Prior to the Football Dome being brought into use a Management and Maintenance Scheme for a period of 10 years to include measures to ensure the replacement of all artificial surface/s within the next 10 years and, management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the development.  
In order to ensure the facilities are adequately maintained.
47. Prior to the first use of the Football Dome a Community Use Agreement shall be submitted to and approved in writing by the Local Planning Authority. The Agreement shall include details of pricing policy, hours of use, access by Seaton Carew FC, management responsibilities and include a mechanism for review. The approved Agreement shall be implemented upon commencement of use of the development.  
In order to ensure the benefits of the Sports Development are delivered.
48. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure, shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road, without the prior written consent of the Local Planning Authority.  
To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

The Committee considered written representations in relation to this matter.

The applicant's representative, Mr P Jordan, was present at the meeting and addressed the Committee.

**123. Appeal Ref: APP/H0724/a/11/2165280/NWF - 110 Whitby Street South, Hartlepool - Change of use of former shop/warehouse into 5 units** *(Assistant Director, Regeneration and Planning)*

The Planning Services Manager informed the Committee that a planning appeal had been lodged against the refusal of the Local Planning Authority to allow the change of use of a former shop/warehouse into five units comprising warehouse with retail (B8), nursery (D1), café and hot food takeaway (A5), storage unit (B8) and recording studio (D1) and alterations to elevations at the former Michael O'Connors, 110 Whitby Street South, Hartlepool.

The application had been refused for the following reason:

“The application site is located in an established industrial area. It is not considered that a children's nursery use (D1) in this location would be compatible with existing or future industrial and commercial uses in this area contrary to Policy GEP1 and Ind5 of the Hartlepool Local Plan (2006).”

The appeal was to be decided by written representations and authority was sought to contest the appeal.

The refusal of the planning application was queried by a member who considered that the only part of the application that may be of some issue was the nursery, yet this had received an Ofsted registration. The Planning Services Manager understood the comments but indicated that the jobs in the nursery and the general uses in that area had been finely balanced. This was an industrial area and there was concern that a nursery may hinder other more appropriate development in the area.

**Decision**

That authority to contest the appeal be approved.

**124. Appeal By Mr Terence Bates Site At Brierton Moorhouse Farm, Dalton Back Lane, Hartlepool** *(Assistant Director, Regeneration and Planning)*

The Planning Services Manager reported that in September 2011 an application for the change the use of an agricultural building and land for use to manufacture and store garden furniture at Brierton Moorhouse Farm, Dalton Back Lane (H/2011/0311) had been refused under delegated powers. The applicant had appealed against the refusal and the appeal had been allowed. A copy of the inspectors decision was submitted for Members' for information. No application for costs had been made.

**Decision**

That the report be noted.



**125. Appeal Ref APP/H0724/A/11/2167553 Demolition Of Existing Amenity Building And Erection Of A Two Storey Building Comprising Commercial Unit (Use Classes A1, A3 And A4) At Ground Floor And Yacht Club And Amenity Facilities At First Floor (Resubmitted Application) At Navigation Point, Marina (H/2011/0059)** *(Assistant Director, Regeneration and Planning)*

The Planning Services Manager reported that a planning appeal had been lodged against the refusal of the Local Planning Authority to allow the above mentioned redevelopment of the site. The decision to refuse was a Planning Committee decision against officer recommendations. The application had been refused for the following reason:-

“It is considered that the proposed development by reason of its siting and design would appear unduly large and out of keeping to the detriment of the visual amenities of the area contrary to policy GEP1 of the adopted Hartlepool Local Plan 2006.”

The appeal was to be decided by written representations.

**Decision**

That authority to contest the appeal be approved.

**126. Northgate Local Centre – Parking Survey** *(Assistant Director (Transportation and Engineering))*

The Assistant Director, Transportation and Engineering, reported the results of a parking survey undertaken on Northgate, The Headland in the vicinity of the local centre, which was carried out at the request of the Committee (2 December 2011). The report concluded that while there was some of the parking available being taken up by long term parking, it had only been viewed as being around one in every four spaces. In light of this figure, it was not considered that any time related restrictions needed to be applied.

**Decision**

That the report be noted.

**127. Update on Current Complaints** *(Assistant Director, Regeneration and Planning)*

The Committee's attention was drawn to twelve current ongoing issues which were being investigated. Any developments would be reported to a future meeting if necessary.

Councillor H Thompson sought further details of issue 11.

Councillors Wells and Dr Morris sought further details of items 4 and 6.

**Decision**

That the report be noted.

**128. Any Other Items which the Chairman Considers are Urgent**

No items.

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

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

Minute 130 – Enforcement Action - Former King Oswy Public House, Hartlepool – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. (para 5) and, Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment (para 6).

**130. Enforcement Action - Former King Oswy Public House, Hartlepool** (*Assistant Director, Regeneration and Planning*)  
(Exempt by virtue of paragraphs 5 and 6)

The Planning Services Manager reported on proposed enforcement action should it be required in respect of the untidy condition of the former King Oswy Public House by issuing a Section 215 Notice.

**Decision**

That the enforcement action be approved, subject to the conditions set out in the exempt section of the minutes.

The meeting concluded at 1.35 p.m.

CHAIR

**No:** 1  
**Number:** H/2011/0643  
**Applicant:** ENVIRONMENT AGENCY GLOBAL AVENUE LEEDS  
 LS11 8PG  
**Agent:** HALCROW GROUP LTD BUILDING 304  
 BRIDGEWATER PLACE BIRCHWOOD BUSINESS  
 PARK WARRINGTON WA3 6XG  
**Date valid:** 12/12/2011  
**Development:** Formation of realigned flood defence embankment,  
 creation of a tidal habitat area and associated works  
**Location:** LAND AT GREATHAM CREEK

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## The Application and Site

1.1 The application site is an area of agricultural land located to the south of Greatham and to the north of the A178 Tees Road. The site extends to some 77 hectares. The lowest parts of the site are located to the eastern end towards the Tees Road. It has in part previously been used for the extraction of brine and a number of well heads are visible on the site. The south eastern part of the site is designated as a Local Wildlife Site (Greatham North). It is bounded to the north east by a high embankment beyond which lie fields and the Conoco Phillips Tank Farm which is itself enclosed by a further high embankment. To the north the site is bounded by a railway line, a watercourse and fields and a gas main also passes along part of the northern boundary. Also to northern end of the site it encloses an area of land occupied by the RHM/Cerebos site, which is in the process of being demolished, and Marsh House Farm and its associated agricultural buildings. To the west/south the site is bounded by Greatham Creek which forms part of the Teesmouth & Cleveland Coast SPA. An embankment on this side protects the lower lying part of the site from inundation from the tidal channel of Greatham Creek. The southern side of Greatham Creek lies in Stockton-on-Tees Borough, a planning application was recently approved here to rewet the land, Cowpen Marsh, to form additional habitat. To the east is the Tees Road A178 beyond which are former Brine Fields. Overground and underground powerlines cross the site as does a water main. A public footpath crosses the site from the Tees Road, and along the top of the existing embankment to connect to tracks at the northern end of the site. The site lies within the consultation zones of several major hazard sites which are located in nearby industrial areas.

1.2 The scheme is designed to provide the compensatory habitat required in connection with coastal defence works implemented as part of the Tees Tidal Flood Risk Management Strategy. It is understood that once the works are completed the site will be managed by the RSPB as a nature reserve. It is proposed to create an area of intertidal habitat in the eastern part of the site. In order to achieve this the existing flood defence embankment at the south end of the site alongside Greatham Creek will be breached in two places. This will allow the fields behind the flood bank to flood with the tide. The existing network of drainage channels will be excavated in this area to assist tidal flows across the site. The area will be allowed to naturally re-vegetate. In order to protect the existing infrastructure which crosses the site

(The water main and electricity power lines) a new embankment will be created to the east and northern end of the site tying in to the remaining embankment to the south. Culverts, with valves to allow for tidal interchange, will be provided through the new embankment to allow for drainage. The existing public footpath will be diverted along the top of the new embankment with the existing public footpath retained as permissive paths up to points either side of the breaches. To provide clay to form the new embankment, borrow pits will be excavated in the fields to the north western end of the site. After the borrow pits have been worked this part of the site will be restored to a range of freshwater (shallow scrapes, ponds to a maximum depth of c. 1.5m, ditches) and meadow habitats. The restored site will be integrated into the managed realignment site. It is intended that the whole area will be managed as a single 'reserve'. It is also proposed, as necessary, to import clay for this purpose and members will be aware of a potential arrangement for the Clay to be sourced from Seaton Meadows Landfill. It is understood that, it is not intended to win any clay from the remaining field to the western end of the site which will remain in agricultural use. It is intended that construction traffic will enter the site from the Tees Road. Finally the submitted drawings indicated potential to provide a public car park with access onto the diverted public footpath in the north eastern corner of the site. However, given the Traffic & Transportation Section's requirement that a dedicated right hand turn lane be provided on Tees Road to serve the car park, subsequent discussions have indicated that the costs of its provision would be outside the scope of the current project.

## **Publicity**

1.3 The application has been advertised by site notice, neighbour notification and in the press.

The time period for representations has expired.

Two responses were received offering no objections. One of the writers has advised that this is subject to construction traffic accessing the site from the Tees Road and not Greatham Village.

One email of support was received from the Manager of the RSPB reserve at Saltholme, this states. "As an adjacent land owner, RSPB Saltholme supports this scheme. A scheme that has been very well considered and one that will deliver a significant improvement to the biodiversity of Teesside; an area that has historically given up considerable natural resources to industrial development. The benefits for wildlife and for people are self evident."

Copy letters **C**

## **Consultations**

1.4 The following consultation replies have been received:

**Head Of Public Protection** : Comments awaited.

**Engineering Consultancy** : Comments awaited.

**Parks & Countryside :** I have no objections to the development described. There is a public footpath that runs through the development area and so it will need to be diverted using the Town and Country Planning Act 1990, section 257. The path is designated as Public Footpath No.11, Seaton.

I have already been in communication with the Environment Agency (EA) and they are aware of the need to divert this path. Please could you advise the EA that any diversion will need to be as enjoyable and as satisfactory to the legal users (in this case; pedestrians) as the present route of the path. I would also like to see the existing section of the path, to be diverted, kept as a permissive path so that walkers can still enjoy the ability to view the Common Seal population that haul up on the mud flats on the south side of Greatham Creek. Such retention of the route of the diverted section of the path would enhance the network of paths in the area, even if kept as a permissive right of way.

**Traffic & Transportation Section :** There are no highway or traffic concerns. We would not want a public car park constructing without improvement works being undertaken on the A178, which would include road widening and the creation of a segregated right turn lane. The applicant needs to finalise the temporary access arrangements with the Councils traffic section including temporary signing and facilities to prevent mud on the highway. It can be conditioned that the design of the car park junction has to be agreed by HBC prior to the opening of the car park on a permanent basis.

**Landscape Planning & Conservation :** The proposal would see the removal of two sections of the sea wall on the north bank of Greatham Creek allowing the tidal inundation of around 22ha of what is currently grassland with a few relict tidal creeks, so as to create an area of salt marsh & mudflat. An incidental effect will be the creation of a number of freshwater habitats as a result of excavation of a separate area of land that is currently under arable production in order to provide clay to create a new bund.

The reason for the development is to provide 20ha of compensatory habitat for the Tees Tidal Flood Risk Management Strategy and the Redcar Flood Alleviation Scheme. The compensation is required as the two plans are predicted to cause a loss of habitat on the Teesmouth & Cleveland Coast SPA/Ramsar due to coastal squeeze over the next 100 years. Whether or not this is suitable compensation for those plans is not a matter for Hartlepool Borough Council to determine as they have already been assessed by the competent authorities involved in each case.

However the proposal would allow, within the 22ha of habitat creation, for 1.5ha of inter tidal habitat that is required as part of the permission H/2007/ 0543 relating to the TERRC site in Hartlepool. There are unlikely to be any other opportunities for the creation of this 1.5ha in the Teesmouth area so this project is very important in that respect.

Even disregarding the benefits of the site as compensation for loss of SPA/Ramsar habitat, the proposal would bring about a huge benefit for nature conservation due to the creation of habitats that are of significance not just on a Hartlepool scale but on a

north east scale as well. To put it into context the salt marsh & mudflat alone would be around half the size of Summerhill Country Park but these habitats are much rarer than those at Summerhill, which is predominantly young woodland. Indeed it is probably fair to say that this is probably the most significant habitat creation scheme to have occurred in Hartlepool or which will ever occur in Hartlepool.

The proposal is also expected to be a boost to the green tourism industry by providing an accessible site for watching wildlife. Consequently the inclusion of a small car park is an important feature which should be incorporated if at all possible.

The two breaches in the sea wall will prevent access along its full length and would therefore require a diversion of the existing public right of way. This will have a positive benefit for nature conservation as the breaches will occur at roughly the points on the sea wall where it is closest to the areas that the seals and the SPA birds use. A permissive right of way will be maintained along the remaining lengths of sea wall so visitors will still be able to get a good view of the seals and birds but preventing access to the closest points will significantly reduce disturbance. Routing the footpath diversion along the embankment to the north of the area to be flooded will also reduce the disturbance that would otherwise occur on that area if people were walking along the length of the sea wall, where their silhouette's could cause disturbance.

The huge benefits to nature conservation notwithstanding there are a number of potentially negative effects on nature conservation from this proposal which are set out in the Environmental Statement and appendices. These are generally minor and are usually greatly outweighed by the positive benefits to the same ecological receptor as, for example, is the case with fish and amphibians. Where there are effects which the ES considers could potentially have a net adverse effect or where conditions should be imposed on the development.

If the proposal has the potential to have a "likely significant effect" on the Teesmouth & Cleveland Coast SPA/Ramsar then Hartlepool Borough Council, as the competent authority, is required to undertake an appropriate assessment under the Habitats and Species Regulations 2010. The first stage in the process is to screen the application for likely significant effect and the applicant states in Appendix B Greatham Managed Realignment: Information to support Appropriate Assessment that; "Screening has concluded that the proposed scheme has the potential to have a 'Likely Significant Effect' upon the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site, this has been confirmed through consultation with Natural England." However after reviewing the submitted application and in particular the mitigation proposed Natural England were able to state in their letter dated 20th January 2012: "Natural England consider that if Hartlepool Borough Council use/adopt the information provided in Appendix B to the ES provided in this submission which includes mitigation measures we would be happy to advise the authority that there would be no adverse effect on integrity." It is vital then that the proposed mitigation is conditioned as part of any application.

Conditions requested requiring deflectors on the pylons to make them more obvious to birds. On the timing of works so that they are completed by the end of September which is outside the main period when wintering birds are present on the site.

Requiring works on the breaching the embankment avoid the June/July period.  
Requiring a breeding bird surveys prior to the commencement of works on site.

**Marine Management Organisation :** Please can you inform the applicant that if any of the works are below mean high water springs, or on or over the sea then they may require a licence under the Marine and Coastal Access Act (2009). A licence enquiry can be submitted through the MMO's licensing portal.

**Northumbrian Water :** Northumbrian Water has no objection to this development. Northumbrian Water has a Sewage Treatment Works at Greatham village. The work's discharge to Greatham Beck is controlled by Environment Agency.

**Hartlepool Water:** Initially objected to the proposals on the grounds that the proposal will affect access to their equipment. It is understood that following discussions with the applicant these issues have been resolved. However a further response from Hartlepool Water is awaited.

**Northern Power Grid (Formerly NEDL):** Have provided details of their apparatus in the area and advised that care will need to be taken given the presence of live cables. They have made various recommendations in terms of safe working which have been passed to the applicant.

**Natural England :** Natural England has already provided detailed comments on drafts of the Environmental Statement ES (in May 2011) and the Appropriate Assessment (in November 2011), as well as having more informal engagement via the project's Environmental Steering Group (ESG) and congratulate the Agency on the thorough nature of its consultation activities.

In particular, we have found the ESG an extremely useful forum. We are also satisfied that almost all the points we raised have been adequately dealt with in the submitted final versions of these documents. The ES is of generally high quality.

Natural England are disappointed that the constraints of the electricity pylons and water main have resulted in a smaller intertidal area than initially envisaged, but welcome the commitment to install bird deflectors on the power line ruling out adverse effects caused by collisions. We are pleased to see that the project also aims to deliver 1.5ha of habitat through a third party agreement with HBC (section 2.1). We support "opportunities to allow tidal exchange between the managed alignment site and the area between the containment bund and the new embankment" described in section 3.3.2. We are pleased to note (section 3.4.1) that part of the construction compound area will be used for off-road parking for visitors to the site; however, as advised in our letter of 10 May, the majority of the compound should be restored to semi-natural grassland habitat (as indeed is shown on Figure 3: Preferred option).

Natural England fully support the approach laid down here (section 16.1), namely that of integrated management of the managed realignment site. Natural England welcomes opportunities for collaboration with the Agency, RSPB and other partners in the North Tees Natural Network in this respect. Further points noted in the ES: Ringed plover are actually heavily dependent on the mudflats of Seal Sands during

migration, rather than the rocky and sandy coastlines suggested here (section 7.3.2). The period of sensitivity for breeding birds is unlikely to extend into August and September (Table 7.1.3).

The response sets out Natural England's advice on the requirements of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (known as "the Habitats Regulations"). This letter also sets out Natural England's response to consultation made under Article 10 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 28 of the Wildlife and Countryside Act 1981.

The proposal is adjacent to Teesmouth and Cleveland Coast Special Protection Area (SPA)/Ramsar site which is a European site protected under the Habitats Regulations.

Specific points relating to the Appropriate Assessment supplied in Appendix B of the ES:

- Table 2.2, column 4, row 6 we are pleased to see the potential loss to scour of SPA salt marsh habitat quantified as 0.2ha, which is equivalent to around 0.23% of the total resource of the habitat within the SPA. We consider this loss to be of no consequence, especially when viewed in the context of a gain of 22ha of intertidal habitat (the great majority of it salt marsh) on the adjacent managed realignment site.
- Table 2.2, column 5, row 6 "no wintering bird interest features will be affected by the construction" (there are no SPA breeding birds on the salt marsh).
- Table 2.3, column 6, row 4 it is not sufficient to state "Mitigation for overhead cables considered for waterbird assemblage". Such mitigation must be provided in order for there to be no residual impact. This is in fact stipulated on Page 13.

Natural England consider that if Hartlepool Borough Council use/adopt the information provided in Appendix B to the ES provided in this submission which includes mitigation measures we would be happy to advise the authority that there would be no adverse effect on integrity.

**Environment Agency :** No objections subject to various conditions outlined below being imposed on the development:

- 1) Scheme to be carried out in accordance with the Flood Risk Assessment.
- 2) A minimum crest level of 4.4m AOD on the new embankments.
- 3) A scheme to address issues relating to on site contamination including unexpected contamination.
- 4) A scheme to require the de-commissioning of the brine wells prior to inundation.

**Teesmouth Bird Club:** Teesmouth Bird Club (TBC) is represented on the Environment Agency's Environmental Steering Group for this project and we are fully supportive of it. The Environment Agency has kept TBC fully informed. I confirm that TBC DOES NOT OBJECT to this Application.



The ES covers the key issues very well and we have no significant concerns regarding the analysis or conclusions. Key issues which we consider of vital importance are:

#### Marking of Overhead Power Lines

The managed realignment scheme will create a large area of new, inter-tidal habitat, which will be highly beneficial and will almost certainly result in Greatham Creek being used by more estuarine birds for feeding. In view of this, it is vital that the existing overhead power lines are conspicuously marked, involving not just the earth wire but also all of the cables. On 2nd December 2011, 3 Mute Swans were killed after colliding with overhead wires at Dornans Pool: 2 died instantly, with the third being taken into care at RSPB Saltholme, where it sadly died. Over many years, TBC has built up a picture of how lethal overhead power lines are to birds of the Tees Estuary and the many mortalities have included Mute Swans, Common Terns, Black-headed, Great Black-backed and Herring Gulls and Shelducks. Proper marking of cables should result in a significant decline in mortality through collision and we recommend that this be made a Condition of Planning Approval, if granted.

#### Mitigation and Enhancement

We fully endorse the proposals for mitigation and enhancement contained in the ES and confirm that these should include the following:

- (i) The retention of an arable field owned by the Agency as a winter feeding area for birds;
- (ii) The provision of off-road car parking facilities to the north west of the A178 Greatham Creek road bridge to allow safe access. The current situation is nothing short of dangerous, particularly for disabled people, the only option for whom at present is to park in the TNNR car park, attempt to cross the extremely busy A178 and then push themselves uphill to get to Greatham Creek. This situation has been exacerbated by the recent closure by Natural England of the informal disabled access via the old A178 roadway on the eastern side. Some of our disabled members are now unable to access Greatham Creek, making the provision of new facilities under this scheme even more expedient.
- (iii) The provision of infrastructure, including pathways, hides and interpretation facilities at strategic locations, to improve access and public enjoyment of the new inter-tidal area.
- (iv) Micro-projects, such as the erection of Barn Owl boxes, raptor posts and nest boxes for small birds, such as Tree Sparrow.

TBC fully supports this imaginative project and hope that your Council approves the Application.

**RSPB:** The Environmental Statement (ES) and associated appendices generally provide a thorough record of the steps taken and findings made during the Environmental Impact Assessment (EIA). The following comments are provided to further strengthen the ES.

### 1. Bird deflectors

It should be clear throughout the document where ever bird deflectors are mentioned (e.g. p69), that this includes appropriately spaced markers on the overhead cables. The report would be strengthened further by demonstrating a commitment for these cables to be moved or undergrounded to reduce the collision risk.

### 2. Mitigation for overwintering birds during construction

It is proposed that the construction phase will take six months with the breach occurring in early September. This should restrict any detrimental impacts on overwintering birds and the ES clearly states (p66) that any delays would be detrimental for seed dispersal. However, as the timeframes of construction on overwintering/passage birds overlap in table 7.13 (p64), mitigation for these SPA species should be considered and steps listed in table 15.1 (p118).

### 3. Saline lagoon creation

*“Saline lagoons were originally planned within the managed realignment; however the ESG stated a preference towards mudflat and salt marsh, especially where tidal interchange could create brackish water bodies behind the water main embankment.”* p12

*“The sector also played host to two species of relatively rare occurrence: little egret and avocet (a Schedule 1 species). In 2009, 10 breeding pairs of avocet were recorded on a saline lagoon located to the south of the A178 Greatham Creek Bridge, with a total of 39 young birds raised (Teessmouth Bird Club, 2010). Though currently located on the southern side of the creek and outwith the Greatham Managed Realignment scheme boundaries, it is possible that this species will begin to colonise Greenabella Marsh and other surrounding areas in the near future should the breeding population be maintained (Teessmouth Bird Club, 2010).”* p58

*“In addition, the construction of additional saline lagoon habitat by digging down 1m between the level of MHWS and HAT at higher elevations within the site (e.g. borrow pits) will provide additional ecological benefits.”* p69

*“Following discussions as part of the Environmental Steering Group, the detailed design will consider the creation of saline or brackish water bodies in this area through the use of self-regulating tide-gates on the culverted water courses through the new embankment. Design has not yet been formalised however, such structures typically involve the use a float to operate a gate valve that controls the amount of water that can pass back onto the landward side of the defences.”* p125

The scheme should include saline lagoon creation on the 5ha near the water main. Culverts should be used to get the saltwater past the water main. This should be considered as part of the compensation for impacts on the SPA, as should any wetland/grassland habitat created through borrow pits etc on the ground at the far north-west of the site.

### 4. Compensation measures

It is important that these new habitats are seen as SPA compensation for the Tees Tidal Flood Risk Management Strategy and the Redcar FAS only and not an opportunity to mitigate for other developments on the Tees.

**Health & Safety Executive (PADHI+)** : HSE does not advise, on safety grounds, against the granting of planning permission in this case. Recommends that the operator of the major hazard pipeline which passes part of the northern boundary of the site (Northern Gas Networks) is consulted.

**Ramblers Association** : We thank the council for consulting the Ramblers on the proposed development. We have agreed the diversion of Seaton 11 and its new line and surface etc to make it as accessible to people of all abilities. We would welcome the development provided the grant of permission (if the council is so minded) is conditioned to take in the path changes mentioned in the D&A; the suitability of its surface for use by the disabled; and the granting of permission by the developer to permit permissive public use of the cul de sacs formed by breaching the section of the existing path.

**Communities & Local Government** : No comments.

**Greatham Parish Council** : The one concern the PC has is they hope that the permissive footpath in place now that gives direct access to the creek from the village will remain as the planning indicates a much longer access route.

**Stockton-On-Tees BC** : No objections.

**Tees Archaeology** : I have no problems with the proposal and believe that this will provide a sound basis on which to assess the impact of the development on the significance of the archaeology (PPS5 HE 6.1 & HE7.2).

The EIA suggests a number of points of mitigation relating to archaeological issues. There may well be additional areas to address following the results of the supplementary archaeology assessment. These concerns can be carried forward by means of planning condition (PPS5: HE12.3).

**Cleveland Emergency Planning Officer** : The proposed site is within the Consultation Distance / Public Information Zone for a number of Control of Major Accident Hazard Regulation Top Tier Sites (Huntsman Pigments and Conoco Phillips Greatham Tank Farm).

Information regarding the possible effects of incidents at these sites and the actions to take in the event of an incident should be available direct from the relevant COMAH Operators under Regulation 14 of the Control of Major Accident Hazard Regulations.

I would strongly urge the developer to take these risks to their workforce into account in any risk assessments covering on site activities during the construction phase.

If the decision is taken to provide a visitor car park alongside the A178 on completion of the scheme I would be keen to discuss how information can be made available to visitors with reference to the actions to be taken in the event of an incident.

With reference to the location of the site within Flood Zone 3 the developer may wish to consider;

- 1) The mechanisms for notifying the workforce in the event of possible flooding (likely to be flood warnings direct).
- 2) The actions that may be required to ensure that the workforce is evacuated safely.
- 3) The actions required to minimize any environmental impact as a result of the site being flooded during construction.

**Northern Gas Networks :** Northern Gas Networks (NGN) has no objections to these proposals, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversionary works be required these will be fully chargeable.

**Network Rail :** No objection in principle to the development, but list their requirements in relation to drainage, fail safe use of Crane and Plant, excavations and earthworks, boundary security, method statements in order to ensure that rail infrastructure is not affected. They express reservations if it is proposed that abnormal loads would be required to use the level crossing or other railway infrastructure (Access from Tees Road is proposed). They advise that accesses to the railway undertakers land should be maintained.

## Planning Policy

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

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

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

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

Tra11: Identifies this land as a safeguarded road improvement corridor where no permanent development will be permitted.

WL2: States that developments likely to have a significant adverse effect on SSSIs

will be subject to special scrutiny and may be refused unless the reasons for development clearly outweigh the harm to the special nature conservation interest of the site. Where development is approved, planning obligations or conditions will be considered to avoid and minimise harm to the site, to enhance its interest and to secure any necessary compensatory measures.

WL7: States that development likely to have a significant adverse affect on locally declared nature conservation, geological sites or ancient semi-natural woodland (except those allocated for another use) will not be permitted unless the reasons for the development clearly outweigh the particular interest of the site. Where development is approved, planning conditions and obligations may be used to minimise harm to the site, enhance remaining nature conservation interest and secure ensure any compensatory measures and site management that may be required.

### **Planning Considerations**

1.6 A number of consultations are outstanding and discussions are ongoing. An update report will follow. It is anticipated that the recommendation will be favourable.

**RECOMMENDATION – UPDATE** report to follow



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>15/02/12</b>
	SCALE <b>1:15000</b>	
<b>Regeneration and Neighbourhoods</b> Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRGNO <b>H/2011/0643</b>	REV

**No:** 2  
**Number:** H/2012/0029  
**Applicant:** Mr Chris Wenlock Church Street Offices 1 Church Street  
 Hartlepool Cleveland TS24 7DS  
**Agent:** Hartlepool Borough Council Mr Steven Wilkie Lynn Street  
 Hartlepool TS24 7BT  
**Date valid:** 18/01/2012  
**Development:** Change of use of Stranton Lodge to cafe with proposed  
 associated structural alterations and extension,  
 regularisation of the public retail element of Stranton  
 Nursery and associated car parking, access road, lighting  
 and landscaping  
**Location:** STRANTON GARDEN NURSERY TANFIELD ROAD  
 HARTLEPOOL

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### The Application and Site

2.1 The application site is located in the north east corner of Stranton Cemetery. There are residential properties immediately to the north in Westbrooke Avenue and Westbrooke Grove and to the east in Tanfield Road and Stockton Road.

2.2 The Council owned cemetery lies to the west and south of the site together with further nursery and operational buildings. The main access to the site is from Tanfield Road.

2.3 There are three main elements to this planning application:-

- a) change of use of Stranton Lodge to café including alterations and extensions
- b) regularisation of the public retail element of Stranton Nursery and
- c) formation of car parking, access road, lighting and landscaping.

2.4 The site currently comprises a number of structures to the eastern side including poly tunnels, greenhouses and a garden centre style shop, which are used in connection with the Council run Stranton Nursery selling horticultural and gardening products to the public.

2.5 The western 'half' of the site contains the Stranton Lodge building with associated office extension, garden, forecourt and outbuildings. To the rear of this is a redundant area with unused outbuildings and concrete garage bases.

2.6 Stranton Cemetery Lodge was originally built as a dwelling in the early 20<sup>th</sup> century and has been used as an office with training facilities for Hartlepool Borough Council. The attached buildings which are modern and single storey are used as offices for cremators and cemetery management staff.

2.7 The current application relates to the use of the ground floor of the lodge as a café. An extension to the rear will provide kitchen and servery together with a canopy style extension over the external patio area. This would be enclosed with glazed panels and incorporate glazed doors. The extension/works will be finished in

materials to match the existing building. Additional outside seating will be provided immediately adjacent to the proposed extension.

2.8 The opening hours requested are from 8.30am to 4.30pm Monday to Saturday and 8.30am to 12pm (noon) Sundays and Bank Holidays. The café will provide a maximum of 50 covers.

2.9 The existing 'garden' area will be redesigned and landscaped with the intention to create a series of 'inspirational' sample gardens and demonstration areas in connection with the nursery/garden centre.

2.10 The second element of the application relates to the regularisation of the use of the garden centre shop to members of the public.

2.11 Although this shop appears to have been in operation for many years (based on HBC records of staff employed on a retail basis) no formal planning consent has ever been sought. The current application seeks to demonstrate that this retail use has been in operation without interruption for a minimum of 10 years and as such has an established lawful use.

2.12 It is likely that when originally opened for business to members of the public, the sales would have been ancillary to the main use of the site as Council Nursery.

2.13 It would appear that over the past 16 years or so the retail trade side has grown into a well developed garden centre.

2.14 The current retail unit comprises 130 sq m of dedicated floor space. The surrounding poly tunnels and greenhouses comprise a further 2100 sq m of floor space and it is intended that approx 1000 sq m of this may be used for public access to displays. No physical alterations or additional works are required in connection with this part of the planning application.

2.15 In connection with the new café and the regularisation of the retail use, the application also proposes the formation of a new car park with associated access road. The site allocated for this is located on an area of underused/waste land to the north of the nursery and Stranton Lodge and immediately to the south of residential properties in Westbrooke Avenue and Westbrooke Grove. The new access road will pass between the café site and the nursery site and will link the new car park with Tanfield Road.

2.16 40 Parking spaces will be provided plus 4 disabled spaces close to the rear access to the café. The car park will be finished in a Bitmac construction and fenced off from sites where public access is not desirable. Additional lighting in the form of 6 number 6m high lighting columns with directional; light fittings to prevent light spillage to residential gardens are included in the scheme.

2.17 The access road will be gated at Tanfield Road to prevent unauthorised access after hours and will have a footpath to one side linking the car park to Tanfield Road. A small section of hedging will have to be removed to form the access point,



however this will be compensated for by the provision of substantial enhanced planting within the landscaped areas of this site.

2.18 As there are a number of large mature trees within the site, a full tree survey has been provided with the application. Should the proposed works to provide the car park and access road impact on these trees, a root protection system will be used. This is a flexible cellular system which has been used by the Council to protect trees in relation to construction in other areas of the town.

2.19 Some trees will be removed in order to enable the development and some because the trees are in poor condition or impacting on other trees. A number of new trees (heavy standard) will be planted on 3 sides of the Stranton Lodge site to compensate for the loss.

### **Publicity**

2.20 The application has been advertised by way of neighbour letters (39), press advert and site notice. To date, there have been 2 letters of objection and 4 letters of no objection (1 with comments).

The concerns raised are:

- 1) Volume of traffic has always been heavy
- 2) New development will add to congestion causing problems for moomers and residents
- 3) Should take account of people who live in the road
- 4) Provided it would be normal business hours there would be no objection
- 5) Should consider some parking restrictions on Tanfield Road.

The period for publicity has expired. Copy letters A

### **Consultations**

2.21 The following consultation replies have been received:

**Public Protection** – No objection subject to an extract ventilation condition

**Engineering Consultancy** – No objections

**Neighbourhood Services** – awaited

**Traffic and Transportation** – no highway or traffic concerns

**Landscape Planning and Conservation** – A comprehensive pre-development arboricultural report has been submitted in support of the proposal. The report contains a full tree survey, an assessment of the arboricultural implications of the proposed development, and a tree protection plan which details the measures necessary to protect the retained trees at the site during development works.

The proposal includes the removal of a small number of trees from the site; however these proposed removals are fully justified in the report.

A scheme of replacement tree planting is also provided which in time will enhance the appearance of the external areas of the site.

Provided that it is carried out in accordance with the submitted details, no objection.

Stranton Cemetery and the buildings within it, including the Lodge Building, are on the Local List for Hartlepool and therefore identified as a heritage asset. Government policy guidance on identified heritage assets is given in PPS5 Planning Policy Statement 5 which, in Policy HE9 states, that there should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset the greater the presumption in favour of its conservation should be. The Lodge Building is within Stranton Cemetery but in the context of the Local List overall is one of the buildings of lesser significance and has also already been altered to some degree.

The proposed alterations are all to the rear of the Lodge Building, where alterations have already occurred. The front of the Lodge is not to be altered as part of the proposals. The front elevation and appearance was the main criteria for inclusion in the Local List besides its location in a wider context of Stranton Cemetery. In this context there are no objections to the application, but a planning condition is requested to ensure that the proposed materials for walls, roofing materials and windows and doors are submitted to ensure an appropriate final appearance.

**Northumbrian Water – No objections**

### **Planning Policy**

2.22 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.

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.

### **Planning Considerations**

2.23 The main planning considerations in this case are the appropriateness of the proposals in terms of the policies and proposals contained within the Hartlepool Local Plan 2006, the impact on neighbouring properties and uses in terms of noise and disturbance, visual amenity impact on a heritage asset and on highway safety.

#### **Café**

2.24 The change of use to provide a café is considered to be acceptable in policy terms. The use would offer a service to visitors to both the cemetery and the Council run nursery.

2.25 The extension and alterations are well designed and should have a positive effect on both the existing building and the street scene in terms of visual amenity. The original building although attractive, has been altered and extended with an unsympathetic extension sometime in the past.

2.26 Notwithstanding this, the proposed works will improve the lodge particularly to the rear where the building and yard/garden are in a poor condition.

2.27 As the lodge is well distanced from residential properties it is unlikely that the proposed use would have a significant impact in terms of noise and disturbance. Residential properties in Tanfield Road and Westbrooke Avenue are approx 90m away from the lodge. Boundaries are well screened by hedges, trees and high fences.

2.28 Given that the opening hours requested are restricted to day time use only, it is considered that this part of the proposed development would be acceptable.

2.29 With regard to the open space around the café, it is considered that the new gardens will provide an attractive setting for customers visiting the café and the nursery and will also offer ideas and inspiration to gardeners.

## **Garden Centre Shop**

2.30 Again, in terms of policy the continued use as a garden centre would be acceptable. The site has been in use as a Council Nursery for more than 40 years and as such is considered to be a well established use in this area.

2.31 Information provided by Council Officers indicates that in the late 1980s the retail side of the nursery was formalised by the employment of staff with retail responsibilities to sell cut flowers, flower arrangements and other garden sundries.

2.32 In terms of its impact on the surrounding area the retail use for more than 20 years does not appear to have given cause for concern from local residents. Based on the fact that there will be no physical alterations to the area used by the public, it is considered unlikely that the continued use of the site would have a detrimental impact on neighbours.

2.33 It is considered that it has been adequately demonstrated that the garden centre has been in use for more than 10 years as a retail outlet for members of the public. Having operated well in excess of this 10 year time period, the garden centre has gained a lawful use and therefore the right to continue without the threat of enforcement action.

## **Car Park**

2.34 The site allocated for the new car park has been used in the past for parking and contained garages, hard standings and outbuildings. Although the northern boundary of this part of the site runs immediately adjacent to residential properties (Westbrooke Avenue and Grove) it should be noted that most of these houses have very long gardens with existing fences between 1.8m and 2.3m in height. There are however two dwellings which have unusually shallow rear gardens, having instead private space to the sides of the houses.

2.35 Notwithstanding this, the parking spaces on the northernmost boundary have been terminated at the south west corner of number 4 Westbrooke Grove and would appear to be well distanced from this house. This area proposed for parking has also been used in connection with the nursery for many years and given that the use will be restricted to day time hours when the café and garden centre is in use, it is considered that the car park would be unlikely to have a significant impact on neighbouring properties in terms of noise and disturbance.

2.36 With regard to some of the objections regarding additional traffic into the site it is considered that based on the fact that there will be no changes to the garden centre and that the café is likely to be used by visitors to the garden centre and the cemetery it is unlikely that traffic into the site would be increased significantly.

2.37 Whilst it is acknowledged that traffic will have to access the site from Tanfield Road, the site is open to vehicular traffic for most of the day and has been for many years.

## Conclusion

2.38 All three elements of the proposal are considered to be both acceptable and appropriate. The works to the Stranton Lodge will have a positive impact on the building itself and on the area in general and will help to preserve a building of local interest.

2.39 The new car park will be used by visitors to the cemetery, café and garden centre and as such should alleviate parking problems and congestion elsewhere within the site and in Tanfield Road.

2.40 It is considered that the use of the garden centre has been well established and is therefore a lawful use.

## RECOMMENDATION – APPROVE subject to the following conditions

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose. Thereafter the development shall be carried out in accordance with the approved details.  
In the interests of visual amenity.
3. The development hereby permitted shall be carried out in accordance with the plans numbered 315/03/01, 315/03/02 rev J, 315/03/03 rev C, 315/03/04, 315/03/10, 315/03/L001, 315/03/L003, BA3472PRO, BA3472AIA, BA3472TP and BA3472TS and details received by the Local Planning Authority on 18-01-2012 and plan 315/03/05 rev A received 31-01-2012 unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt.
4. The cafe shall only be open to the public between the hours of 0830hrs and 1630 hrs Mondays to Saturdays and 0830hrs and 1200hrs (noon) on Sundays and Bank Holidays.  
In the interests of the amenities of the occupants of neighbouring properties.
5. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced. Thereafter the development shall be carried out in accordance with the approved details.  
In the interests of visual amenity.
6. The use hereby approved shall not commence until there have been submitted to and approved in writing by the Local Planning Authority plans and details for ventilation filtration and fume extraction equipment to reduce cooking smells, and all approved items have been installed. Thereafter, the approved scheme shall be retained and used in accordance with the manufacturers instructions at all times whenever food is being cooked on the premises.  
In the interests of the amenities of the occupants of neighbouring properties.
7. Prior to commencement of the development hereby approved, further details of all lighting shall be submitted to and approved in writing by the Local

Planning Authority.

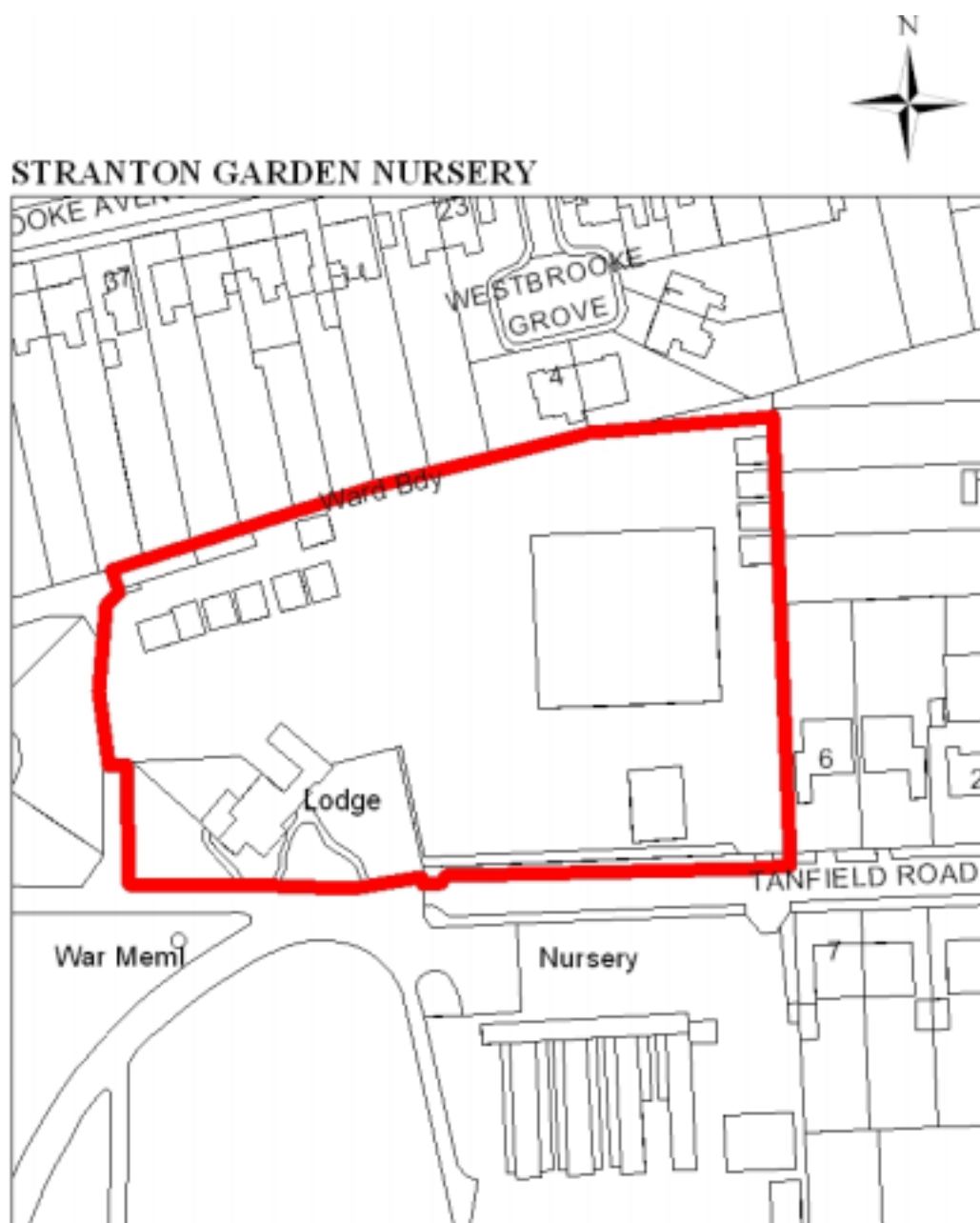
In the interests of the amenities of the occupants of neighbouring properties.

8. The lighting units shall be fixed at all times to ensure that light is directed away from residential properties.

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

9. Before the cafe is brought into use the hereby approved car parking scheme shall be provided in accordance with the approved details. Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.

In the interests of highway safety.



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>15/02/12</b>
	SCALE <b>1:1000</b>	
<b>Regeneration and Neighbourhoods</b> Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRGNO <b>H/2012/0029</b>	REV

**No:** 3  
**Number:** H/2012/0015  
**Applicant:** Mr Brendon Colarossi Engineering Consultancy Hanson House HARTLEPOOL TS24 7BT  
**Agent:** Hartlepool Borough Council Mr Brendon Colarossi Engineering Consultancy Hanson House Hanson Square HARTLEPOOL TS24 7BT  
**Date valid:** 20/01/2012  
**Development:** Restoration and re-establishment of groynes to front of Town Wall  
**Location:** Town Wall Southgate HARTLEPOOL

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## Background

3.1 In 2008, a detailed coastal study was commissioned by Hartlepool Borough Council to understand the current and future performance of the Town Wall as a coastal erosion and flood defence structure. This study is now complete and a package of measures has been proposed to combat coastal erosion and decrease flood risk.

3.2 This particular application is the first application relating to this package of work and is for the reinstatement of 3 groynes that since 1980 have fallen into disrepair.

3.3 Historically, the groynes were constructed around 1890 to encourage accumulation of sediment (sand) to maintain beach levels and thereby break up the destructive action of the sea on the Town Wall. In the 1980's it was determined that due to the prevailing coastal processes, 3 of the 4 groynes were no longer effective in retaining beach material and maintenance of them was ceased. The fourth groyne received continued maintenance as its location was considered such that it would continue to be effective. The fourth groyne continues to work effectively and is maintained by PD Ports.

## The Application and Site

3.4 Hartlepool Borough Council are seeking consent to reinstate 3 groynes as part of a package of measures intended to upgrade the coastal and flood protection at the Town Wall. The performance of the groynes, once in situ, will be monitored to provide information on their effectiveness in order to develop future long term maintenance regimes dependent upon the success of the groynes in capturing sediment materials.

3.5 During Consultation with local residents as part of the Town Wall Coastal Model Study, residents have expressed a strong view that allowing 3 of the groynes to fall into disrepair may have caused or contributed toward the beach lowering, as previous to this, a stable beach was evident.



As far as possible the reinstatement will make use of original materials. This will be supplemented by in-situ concrete walls anchored into the original foundations which are still present below existing beach levels.

### **Publicity**

3.6 The application has been advertised by way of neighbour letters (9), site notice and press advert. To date, there has been one letter of support received.

Copy Letters B

The period for publicity is still outstanding but expires prior to the meeting

### **Consultations**

3.7 The following consultation replies have been received:

**Marine Management Organisation** – Comments awaited

**Headland Parish Council** - Comments awaited

**Environment Agency** - Comments awaited

**Conservation Officer** - Comments awaited

**Traffic and Transportation** - Comments awaited

**Engineering Consultancy** - Comments awaited

### **Planning Policy**

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

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

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

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

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

HE2: Encourages environmental improvements to enhance conservation areas.

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

Rur17: Safeguards this walkway from development not directly associated with its use as a major recreational route.

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

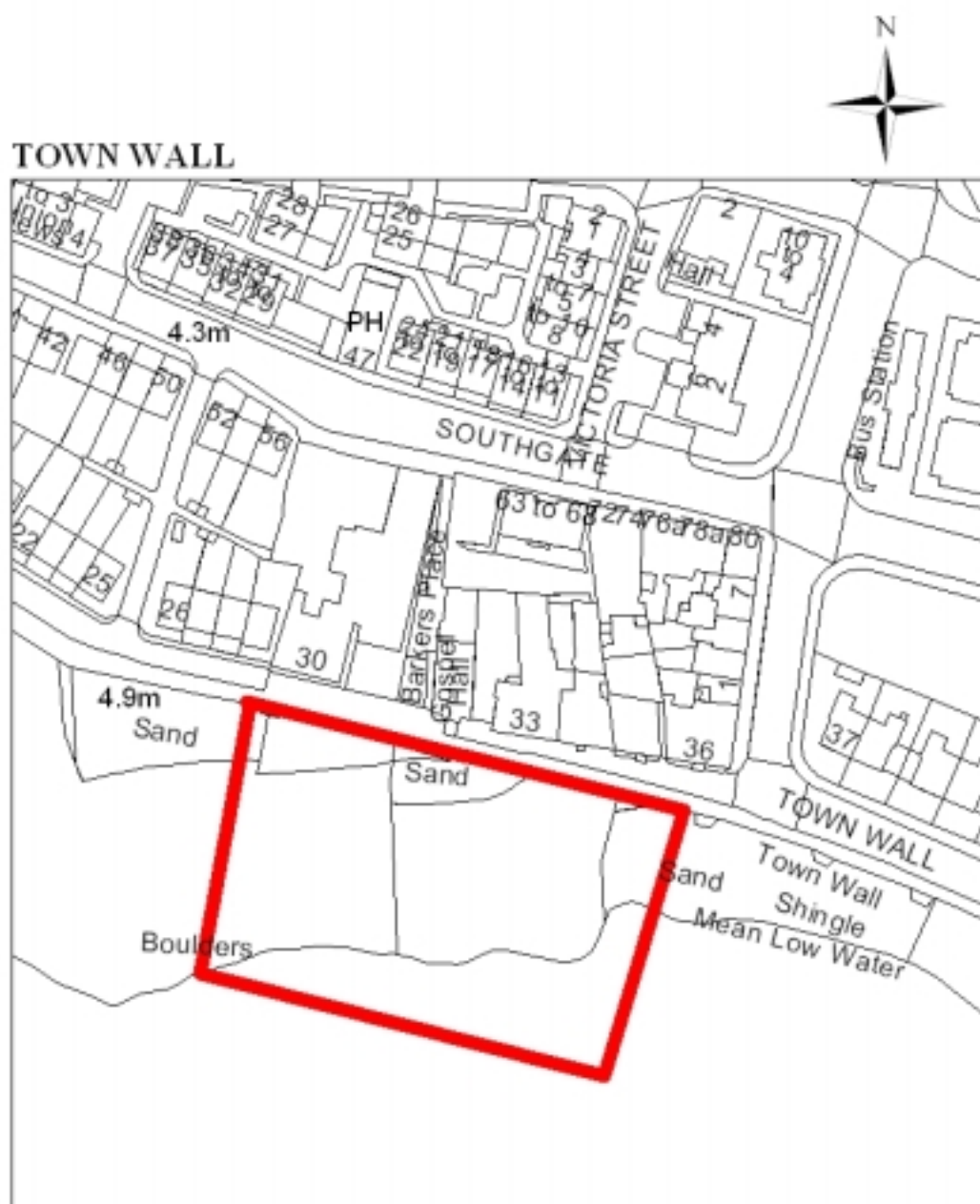
WL7: States that development likely to have a significant adverse affect on locally declared nature conservation, geological sites or ancient semi-natural woodland (except those allocated for another use) will not be permitted unless the reasons for the development clearly outweigh the particular interest of the site. Where development is approved, planning conditions and obligations may be used to minimise harm to the site, enhance remaining nature conservation interest and secure ensure any compensatory measures and site management that may be required.

## **Planning Considerations**

3.9 The main issues for consideration in this instance is the appropriateness of the proposal in relation to the relevant Development Plan policies as set out above, including the principle of development, the impact on visual and residential amenity, landscape visual impact, the impact on the character and appearance of the Headland Conservation Area and the town wall (which is a schedule ancient monument) ecology and biodiversity, coastal impact, flood risk, traffic and transportation and noise and vibration.

3.10 All consultation responses are awaited and publicity in respect of the application is outstanding. It is therefore considered prudent to address all relevant planning considerations and any representations received in a comprehensive update report to follow.

**RECOMMENDATION – UPDATE** report to follow



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>15/02/12</b>
	SCALE <b>1:1000</b>	
<b>Regeneration and Neighbourhoods</b> Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRGNO <b>H/2012/0015</b>	REV

**No:** 4  
**Number:** H/2012/0056  
**Applicant:** Mr Chris Wenlock 1 Church Street HARTLEPOOL TS24 7DS  
**Agent:** Hartlepool Borough Council Mr Steven Wilkie Bryan  
 Hanson House Lynn Street HARTLEPOOL TS24 7BT  
**Date valid:** 31/01/2012  
**Development:** Change of use to horticultural depot to accommodate the relocation of local authority horticultural depot, internal storage for vehicles, equipment and materials  
**Location:** Former Focus DIY Store Lynn Street HARTLEPOOL

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### The Application and Site

4.1 The application site is the former Focus DIY store which has been vacant for sometime. The building is a large warehouse type structure with a bitmac car park to the front elevation and large areas of hardstanding to the south and east. The site is adjacent to the main Hartlepool Borough Council works depot to the north, a local authority office block to the northwest, a recently constructed residential area to the west, and commercial/warehouse buildings to the east and south. Other than the housing area fronting Lynn Street the character of the area is largely a mix of commercial/light industrial in appearance dominated by large industrial-type buildings.

4.2 The proposals seeks the change of use from an A1 retail warehouse to a horticultural depot (sui generis) in order to accommodate the relocation of the local authority horticultural depot from Stranton to Lynn Street. This will greatly improve efficiency of operations due to the proximity of the existing main HBC works depot, ensuring that vehicle and equipment refuelling, cleaning and maintenance, etc. no longer requires significant cross-town movement of vehicles. The facility will also provide valuable internal storage for vehicles, equipment and materials to improve security and longevity (i.e. vehicles, equipment and materials will be protected from the elements).

4.3 The current site boundary treatment includes fencing of a variety of heights and type. The Lynn Street frontage (west) comprises of a grassed verge with a small number of existing trees and a 900mm high timber knee rail surrounding the car park area. The building is set some distance back from Lynn Street itself, separated by the car parking area. The vehicle access at this point accesses the facility's car park and it is intended that this area will remain the same. There will be some improvement works to upgrade the existing timber knee rail and the surface of the car park, there is also upgrading of the landscaping areas. The existing highway entrance area (Reed Street) currently has a 1.8m high galvanised finish palisade fence and gate. It is proposed that this is the main entrance into the operational depot. The existing fence would be replaced with a 2.4m high palisade fence to match existing fencing and to enhance security. The new gate would also have an access control system in order to provide improved security (with a second internal

perimeter gate also to be controlled in this manner). The area to the rear will accommodate a number of skips a secure petrol storage/dispensing area. The northern boundary onto Surtees Street has a number of fire exits located along the side elevation and is separated from the public footpath by a grass verge. There is a secondary vehicle access point which will remain with additional fencing being erected and the existing access gates being brought forward in line with the building, an area of council owned land which abuts the entrance will be incorporated into the fencing line to improve security.

### **Publicity**

4.4 The application has been advertised by way of neighbour letters (11) and site notice. To date, there have been no representations received.

The period for publicity has expired.

### **Consultations**

4.5 The following consultation replies have been received:

**Public Protection:** I would have no objections to this application. I understand that a management system will be put in place to ensure that all vehicles leaving the site early on a morning are directed left down Reed Street away from the residential properties on Lynn Street.

**Engineering Consultation:** No objection

**Fire Officer:** No objection

**Traffic & Transportation:** No highway or traffic concerns

**Landscape Planning & Conservation:** The proposal includes enhancement to the front car parking area and the provision of additional planting. Some works have already taken place with additional planting and it is considered acceptable. No objections.

**Cleveland Police:** No comments received

### **Planning Policy**

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

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

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.

### **Planning Considerations**

4.7 The main planning considerations in this case are the appropriateness of the development in terms of the policies and proposals contained within the adopted Hartlepool Local Plan 2006, the impact of the development on neighbouring properties and the street scene in terms of visual amenity and on highway safety.

4.8 The site has been identified as a key site in the creation of an innovation and skills quarter within the area aimed at developing and supporting new and small businesses. The area has recently undergone significant changes with a new housing development on Charles Street which is opposite the application site. The site has potential to be incorporated into a larger scale redevelopment which will enhance the whole of the area.

4.9 The proposed use will enhance the appearance of a rather untidy vacant site but it would be prudent to give a temporary permission, given the long term aspirations of the Council for the wider area.

4.10 It is considered that the reinstatement of the building would have a positive impact upon the residential properties opposite the site. Although as an operational depot concerns were raised by the case officer with regards to potential noise issues due to the operating hours required and coming and goings of early morning traffic. This has been addressed and mitigating measures have been provided through a management plan which will restrict early morning traffic leaving the depot. The contracting vehicles will egress onto Reed Street. The hours of operating are similar to those of the main Council depot, and are necessary for continuity of services offered by the horticultural division. Public protection raise no objection to the proposal.

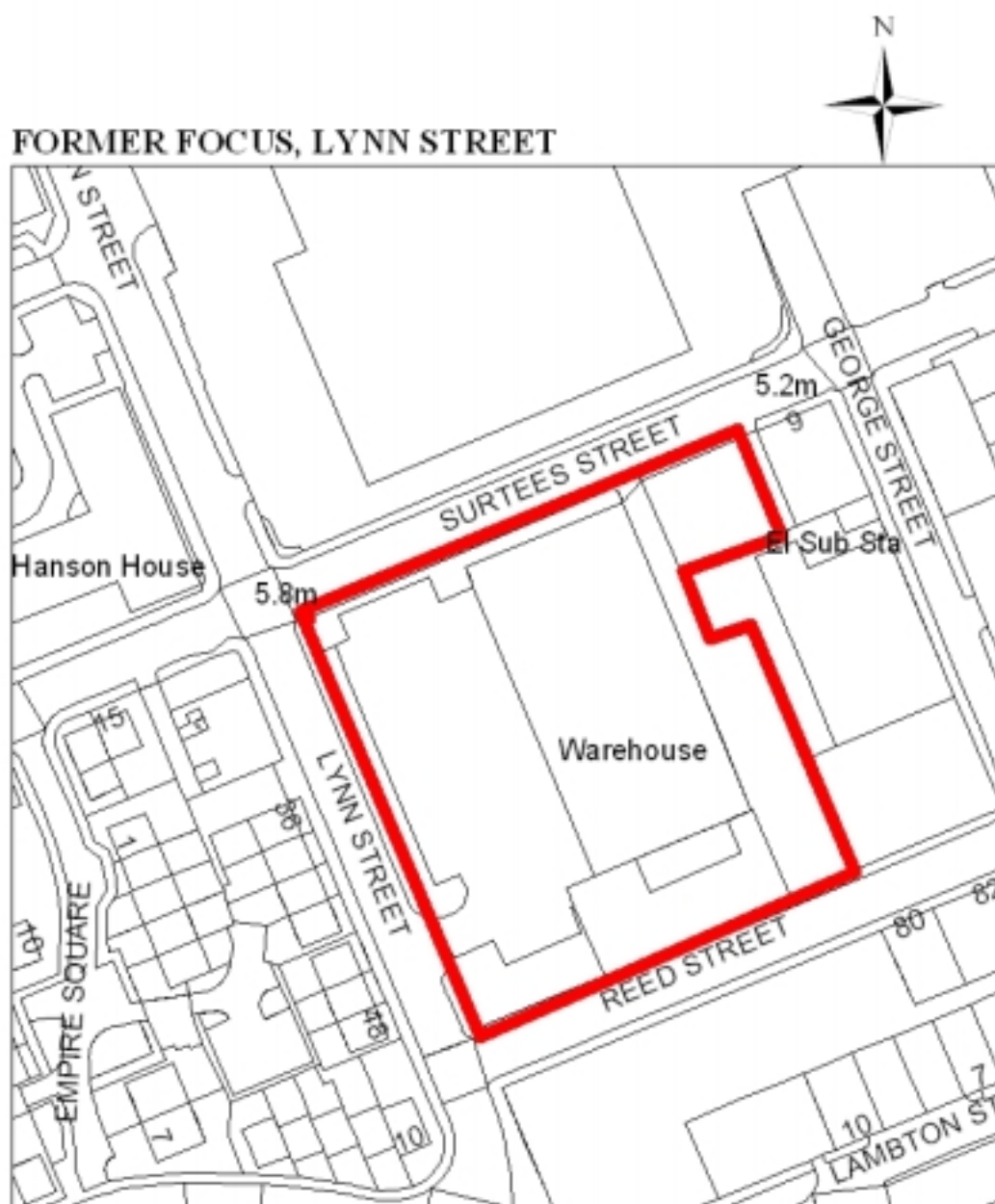
4.11 The site has a large area of off street parking in a purpose built car park which can accommodate a number of vehicles there is cycle storage also to be provided. It is anticipated that the car park will not be used for operational vehicles and will be

provided for staff parking, it is proposed that the area can be used as a permit parking facility that will reduce the pressure of parking on surrounding street. The highways raise not objection to the proposal.

4.12 It is for the above reasons that the application is recommended for approval subject to the conditions below.

#### **RECOMMENDATION - APPROVE**

1. The use hereby approved shall be discontinued and the land restored to its former condition on or before 2 March 2017 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 use in the light of experience.
2. The development hereby permitted shall be carried out in accordance with the plans and details Drg No(s) 110-01-01, 110-01-02, 110-01-03, 110-01-04, 110-01-05, 110-01-06, 110-01-L001 and 110-01-L002 received by the Local Planning Authority on 31 January 2012, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt.
3. No activity likely to cause nuisance by burning, dust or fumes/odours, or any activity that may otherwise interfere with the amenities of the surrounding area shall be carried out without the prior written consent of the Local Planning Authority.  
In the interests of the amenities of the surrounding area.
4. Final details of cycle storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the agreed details shall be implemented prior to the operation of the hereby approved use.  
In the interests of promoting sustainable transport.
5. Final details of the tarp system to cover the concrete storage bays shall be submitted and approved in writing by the Local Planning Authority. Thereafter the agreed details shall be implemented prior to the operation of the hereby approved use.  
In the interests of visual amenity and neighbouring residential properties.
6. Prior to commencement of use a management plan/agreement to control access of depot vehicles to/from the accesses onto Reed Street and Surtees Street shall be submitted and approved in writing by the Local Planning Authority. Thereafter the site shall be operated in accordance with the approved management plan/agreement.  
In the interests of the amenities of nearby residential properties.
7. The access onto Lynn Street shall be used solely for general cars/vehicles and not be used by depot vehicles.  
In the interests of the amenities of nearby residential properties.



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>17/02/12</b>
	SCALE <b>1:1000</b>	
<b>Regeneration and Neighbourhoods</b> Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRGNO <b>H/2012/0056</b>	REV



**No:** 5  
**Number:** H/2011/0614  
**Applicant:** Mr Raymond Liddell 5 St. Bega`s Glade Hartlepool TS25 2BE  
**Agent:** Peter Gainey Architectural Services  
Mr Peter Gainey 50 Granville Avenue Hartlepool TS26 8NB  
**Date valid:** 06/12/2011  
**Development:** Removal and replacement of shop front, windows and domers and removal of first floor window at rear  
**Location:** 72 THE FRONT HARTLEPOOL

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### The Application and Site

5.1 The site to which this application relates is a two-storey property located on The Front, within the Seaton Carew Conservation Area. The property comprises a hot food takeaway at ground floor and vacant accommodation at first floor. The property dates from the late 19<sup>th</sup> century.

5.2 The application seeks consent for a replacement timber shop front, the replacement of the first and second floor windows in uPVC, including uPVC weatherboarding to the second floor dormer to the front, and the removal of a first floor window to the rear. The works have been largely completed and consent is therefore sought retrospectively.

### Publicity

5.3 The application has been advertised by site notice, press advert and neighbour notification (4). No objections have been received.

5.4 The period for publicity has expired.

### Consultations

5.5 The following consultation replies have been received:

**Conservation Officer** – No objection to the replacement shop front or removal of window to the rear. Objects to the proposed replacement first floor windows, and dormer window including weatherboarding. Concerns over design of windows to the rear extension.

**Civic Society** – Concerns. More appropriate windows should be used instead.

### Planning Policy

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

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

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

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

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

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

HE2: Encourages environmental improvements to enhance conservation areas.

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

## **Planning Considerations**

5.7 The main planning considerations in this instance are the appropriateness of the proposals in relation to the relevant Hartlepool Local Plan (2006) policies, with particular regard to the impact of the proposals in respect of the preservation and enhancement of the Seaton Carew Conservation Area.

5.8 PPS5: Planning for the Historic Environment and policy HE1 of the Hartlepool Local Plan (2006) advises that all development relating to heritage assets, in this case the Seaton Carew Conservation Area, should be considered against the criteria and is sustained and enhanced by the development.

5.9 In respect of replacement windows in Conservation Areas, Council policy adopted in 2009 states that any planning application for replacement or alteration of

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

5.10 Previous investigations into the history of the property indicate that originally, the first floor contained a single sash window with no dormer window at second floor.

5.11 It is considered that the proposed design of the first floor windows and roof dormers are similar to the existing windows in the property - both are considered to be non-traditional designs within the context of the Seaton Carew Conservation Area. In this instance as the windows have previously been altered the policy is to encourage traditional windows, however, the use of uPVC would be acceptable if the windows are of a similar appearance to a traditional window (glazing bars, horns etc), however, a non traditional opening mechanism will be allowed. If this application sought the replacement of traditional windows, the use of traditional materials would be encouraged, however, the use of uPVC would be accepted on the basis that the finer details, for example glazing bars, horns and opening mechanism were replicated. The use of uPVC introduces a material that offers a visually different effect than painted timber, particularly in respect of the weatherboarding to the first floor dormer. It is considered that the weather boarding is prominent, stark in appearance and out of keeping with the conservation area. As such it is considered that the proposed replacement windows are contrary to the above policy and would neither preserve nor enhance the character and appearance of the Conservation Area.

5.12 Whilst it is acknowledged that the works have contributed towards bringing the property back into use and replaced the previous windows and dormer which were in a derelict condition, it is considered that those benefits are outweighed by the harm to character and appearance of the Conservation Area caused by the inappropriate design and appearance of the windows and weather boarding.

5.13 The first floor rear extension is a 20<sup>th</sup> century addition to the property. As such, whilst an improvement in the design could be achieved, given it is a modern addition, it would be difficult to sustain an objection to their replacement. The removal of the rear first floor window is considered acceptable.

5.14 The works to the proposed shop front are considered acceptable. It will be constructed in timber in a similar design to the existing. It is considered that the revised framing details improve the appearance compared to the existing.

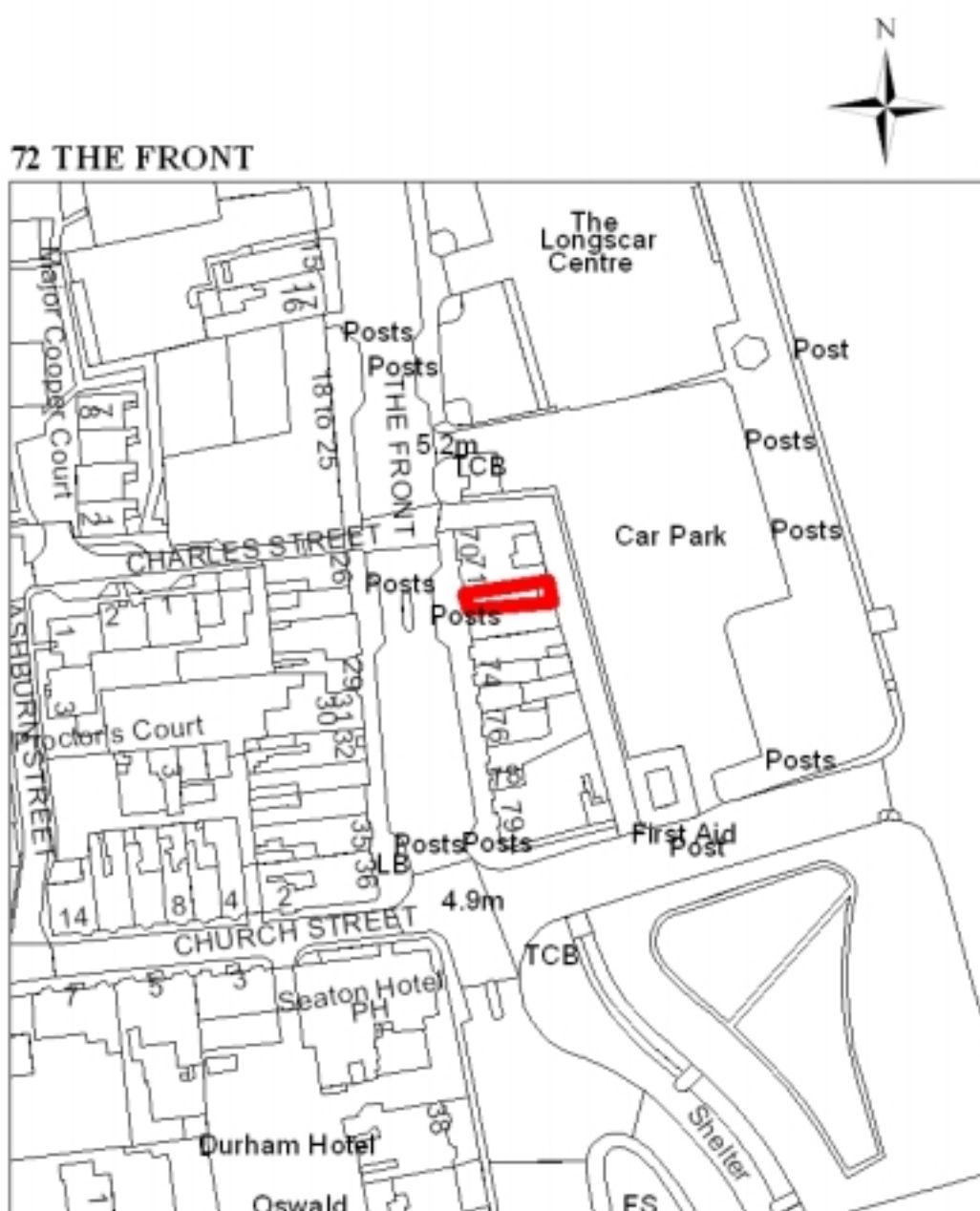
## Conclusions

5.15 Having regard to the advice set out in PPS5, and with regard to the adopted Hartlepool Local Plan (2006) policies, it is considered that the proposed windows would neither preserve nor enhance the character and appearance of the Seaton

Carew Conservation Area and are therefore contrary to the relevant policies set out above. In line with the adopted Council policy and for consistency, the application is therefore recommended for refusal.

#### **RECOMMENDATION - REFUSE**

It is considered that the proposed first and second floor windows, and the proposed weatherboarding to the first floor dormer, on the front elevation by virtue of their design and appearance, will neither preserve or enhance the character and appearance of the Seaton Carew Conservation Area, and are therefore contrary to policies GEP1 and HE1 of the adopted Hartlepool Local Plan (2006).



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>15/02/12</b>
	SCALE <b>1:1000</b>	
<b>Regeneration and Neighbourhoods</b> Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRGNO <b>H/2011/0614</b>	REV

## UPDATE REPORT

**No:** 1  
**Number:** H/2011/0643  
**Applicant:** ENVIRONMENT AGENCY GLOBAL AVENUE LEEDS  
LS11 8PG  
**Agent:** HALCROW GROUP LTD BUILDING 304  
BRIDGEWATER PLACE BIRCHWOOD BUSINESS  
PARK WARRINGTON WA3 6XG  
**Date valid:** 12/12/2011  
**Development:** Formation of realigned flood defence embankment,  
creation of a tidal habitat area and associated works  
**Location:** LAND AT GREATHAM CREEK

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### BACKGROUND

1.1 This application appears at item 1 on the main agenda. At the time of writing the original report discussions were still ongoing and consultee responses were awaited.

### CONSULTATION RESPONSES

1.2 Responses have been received from the following:

**Hartlepool Water :** Further to the correspondence below between Hartlepool Water and the Environment Agency, I refer to the objections to the scheme raised in my email and letter dated 28<sup>th</sup> December 2011 and confirm that these objections are now withdrawn as the EA have addressed the issues.

**Health and Safety Executive, Office for Nuclear Regulation** - have confirmed that they have no comments on nuclear safety with regard to the development.

**Head of Public Protection** – No objections to this application subject to all construction vehicles accessing the site from Tees Road and not through Greatham Village.

**Engineering Consultancy** – The Environment Agency are the responsible body for strategic management of flood risk from the Sea and Main Rivers. Greatham Creek is a Main River and these works have arisen out of the Environment Agency's Tees Tidal study. I am happy to support these works provided that conditions are imposed on any approval to ensure that the works are carried out in accordance with the submitted flood risk assessment and the potential for contamination is investigated in detail with a risk assessment and remedial measures proposed (standard contamination planning condition).

### PLANNING CONSIDERATIONS

1.3 The main planning considerations are considered to be policy, impact on ecology and designated sites, impact on the visual amenity of the area, highways,

impact on the amenity of neighbours, impact on utilities, contamination, flooding, impact on the railway and the presence of major hazard sites.

1.4 An Environmental Statement (including supporting documents), Flood Risk Assessment, Planning Statement, Design and Access Statement, Ground Investigation Report, has been submitted to accompany the application. The Environmental Statement considers the scheme in relation to a number of factors which include:

- 1) Hydrodynamic and sedimentary regime;
- 2) Flora and fauna;
- 3) Industry, transport and infrastructure;
- 4) Geology, soils and hydrogeology;
- 5) Historic environment;
- 6) Water and marine sediment quality;
- 7) Landscape and visual amenity;
- 8) Noise;
- 9) Recreation, access and amenity.

## POLICY

1.5 The application site is located within the limits to development for Hartlepool. The south eastern part of the site is designated as a Local Wildlife Site (Greatham North) with the remaining parts of the site identified as white land i.e. land with no specific designation or as a local wildlife site. To the west/south the site is bounded by Greatham Creek which forms part of the Teesmouth & Cleveland Coast SPA.

1.6 The scheme is designed to provide the compensatory habitat required in connection with coastal defence works implemented as part of the Tees Tidal Flood Risk Management Strategy. It is proposed to create an area of intertidal habitat in the eastern part of the site and a range of fresh water habitats in the western part of the site. It is understood that once the works are completed the site will be managed by the RSPB as a nature reserve.

1.7 It should also be noted that in paragraph 1(v) of Planning Policy Statement 9 (PPS9) - Biodiversity and Geological Conservation it states that "Development proposals where the principal objective is to conserve or enhance biodiversity or geological conservation interests should be permitted."

1.8 The proposals will greatly enhance the ecological value of the site, and are compatible with current Local Plan Designations for the area, in policy terms the proposals are considered to be acceptable and are encouraged by National Policy.

## IMPACT ON ECOLOGY & DESIGNATED SITES

1.9 Part of the site is a designated local wildlife site and the site is located adjacent to the Teesmouth & Cleveland Coast SPA.

1.10 The proposal has been informed and endorsed by an environmental steering group including Natural England, RSPB, Teesmouth Bird Club and HBC Ecologist.

1.11 Notwithstanding the potential for some disruption during the construction period, which can be minimised through appropriate conditions, it is considered that the proposal in the long term by providing additional habitats will have significant beneficial impact on both the ecology of the site and the adjacent SPA.

#### IMPACT ON THE VISUAL AMENITY OF THE AREA

1.12 The works proposed include breaches in existing embankments, scouring of existing drainage channels, fresh water habitats and the creation of a new flood embankment.

1.13 Embankments, channels and water habitats are a common feature of this riverside environment and whilst the works, adjacent to the major road will arguably in the short term have a negative visual impact in the longer term as the areas naturally re-vegetate and the habitats become established it is considered that the development will have a significant positive impact on the visual amenity of the area.

#### HIGHWAYS

1.14 In order to avoid disruption to the residents of Greatham Village construction traffic will take access and egress from the Tees Road. Traffic & Transportation have raised no objection to the proposals subject to the finalising of the temporary access arrangements including the provision of signage and facilities to prevent mud being deposited on the highway. It is considered that these matters can be conditioned.

1.15 The applicant has indicated, on the submitted plans potential for a car park facility, with access from Tees Road, in the north east corner of the site. Traffic & Transportation have indicated that they would not want a public car park constructing without improvement works being undertaken on the A178, which would include road widening and the creation of a segregated right turn lane. The Environment Agency's primary objective for the site is to implement a habitat creation scheme for purely ecological aims. The agency recognise the car park would enhance the facility from a visitor perspective unfortunately, whilst the car park provision remains an aspiration the costs of the additional highway works required to accommodate the car park fall outside the current project. The Environment Agency's ultimate aspiration is to implement a scheme for a car park in the future and any required highway works subject to availability of funding. The Agency will continue to work with its partners, particularly the environmental steering group, to develop a design and investigate funding sources to facilitate a permanent car park and access. It is not a requirement of the Traffic & Transportation Section that the car park be provided but that if it is, all necessary improvement works, i.e. the left turn lane are also brought forward. At this time given the uncertainty over funding it is considered appropriate to condition the details of the car park and access in the hope that if and when finances become available its provision is not delayed.

1.16 A public right of way crosses the site. The development will require the diversion of the existing public right of way which will pass along the top of the new embankment. It is understood that parts of the existing public right of way along the existing embankment, to the points of the breaches will be retained as permissive



paths. This will allow walkers to continue to get close to the channel. The diversion of the Public Footpath will be the subject of a separate legal process should planning permission be granted for the development. The Countryside Access Officer and the Ramblers Association have been consulted and have raised no objections to the proposal.

1.17 In Highway terms the proposal is considered acceptable.

#### IMPACT ON THE AMENITY OF NEIGHBOURS

1.18 The applicant has indicated that construction traffic will access and egress the site from the Tees Road and this should minimise any disturbance to the residents of Marsh House Farm and other Greatham residents. The applicant has indicated that clay will be excavated from borrow pits in the fields around Marsh House Farm. The applicant is still clarifying the extent of the workings and these details and the restoration scheme will be conditioned to ensure any disturbance is minimised. The Head of Public Protection has raised no objections to the proposal but asked that access for construction traffic be taken from the Tees Road. It is considered that with appropriate conditions the impact on residential neighbours can be effectively managed.

1.19 The juxtaposition of wildlife and industry is a common feature of the Tees estuary and it is not considered that the proposed development would be likely to have any significant impact on the adjacent industrial sites.

#### IMPACT ON UTILITIES

1.20 The scheme has been devised to accommodate existing utilities (water and electricity) which cross the northern part of the site. These will be protected from inundation where necessary by the proposed embankment. The initial objection raised by Hartlepool Water has been addressed and other utility operators, whilst offering advice, have not raised any objections to the proposal. It is not considered that the proposal will cause disruption to the utilities which cross the site.

#### CONTAMINATION

1.21 The works will involve excavations as well as the inundation of an area of former brine working including redundant well heads which are in the process of being decommissioned. The site is known to be contaminated.

1.22 The Environment Agency and Hartlepool Borough Council's Engineering Consultancy have been consulted and have raised no objections subject to appropriate conditions to address issues of contamination and to ensure the appropriate decommissioning of the well heads.

1.23 It is considered that with appropriate conditions any issues relating to contamination can be addressed.

#### FLOODING

1.24 The site is located in a high flood risk area. The proposal includes breaching the existing flood embankment adjacent to Greatham Creek and the provision of a new embankment to the north in order to create an area of intertidal habitat. The embankments will be maintained by the applicant, the Environment Agency, who are responsible for the strategic management of flood risk from the Sea and Main Rivers.

1.25 The application has been supported by a Flood Risk Assessment. This concludes that the proposed development is an appropriate development in a high flood risk area and that it will not increase the risk of flooding to adjacent properties.

#### IMPACT ON THE RAILWAY LINE

1.26 A railway line passes close to the northern boundary of the site. Network Rail have been consulted and have raised no objections to the proposal but offered relevant advice in order to ensure that the proposed works do not affect the railway line or its operation. In practice, it is only likely to be the proposal for the excavation of the borrow pits in the fields adjacent which have potential to affect the railway. The applicant is still clarifying the extent of the workings and these details and the restoration scheme will be conditioned to ensure any potential impact is minimised.

#### PRESENCE OF MAJOR HAZARD SITES

1.27 The site is located in an area which falls within the consultation zone of several major hazard sites including a major hazard pipeline. It is already publicly accessible in part, through the public footpath which crosses the site.

1.28 The HSE, the Office for Nuclear Regulation and the Cleveland Emergency Planning Unit have been consulted and have raised no objections to the proposal. The Cleveland Emergency Planning Unit have provided relevant advice on the management of the site and this has been passed onto the applicant.

1.29 A gas pipeline passes close to the northern boundary of the site in the field identified for borrow pits. The operator of the pipeline has been consulted and raised no objection but asked that the developer contact them to discuss their requirements. This information has been passed onto the applicant. In practice, it is only likely to be the proposal for the excavation of the borrow pits in the fields adjacent which have potential to affect the pipeline. The extent of the pits and restoration/ landscaping in this area will be conditioned to ensure that any potential impact is minimised.

#### CONCLUSION

1.30 The proposal will bring significant benefits for nature conservation, facilitating the creation of habitats that are of significance not just for Hartlepool but for the wider North East region. It is described by the HBC Ecologist as probably “the most significant habitat creation scheme to have occurred in Hartlepool or which will ever occur in Hartlepool”. Together with recent and proposed developments in Stockton-on-Tees Borough, including Saltholme and the rewetting of Cowpen Marsh, it will not only bring benefits to wildlife but potentially boost green tourism in the area by increasing the mosaic of wildlife sites which are attractive to such visitors.

**RECOMMENDATION** – APPROVE subject to conditions the final details of which are currently being determined and will be tabled at the Planning Committee.

## UPDATE REPORT

**No:** 3  
**Number:** H/2012/0015  
**Applicant:** Mr Brendon Colarossi Engineering Consultancy Hanson House HARTLEPOOL TS24 7BT  
**Agent:** Hartlepool Borough Council Mr Brendon Colarossi Engineering Consultancy Hanson House Hanson Square HARTLEPOOL TS24 7BT  
**Date valid:** 20/01/2012  
**Development:** Restoration and re-establishment of groynes to front of Town Wall  
**Location:** Town Wall Southgate HARTLEPOOL

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### Background

3.1 This application appears as item 3 on the main agenda. A number of responses from the outstanding consultees have been received and are set out below. The period for publicity is ongoing and expires following the meeting. One letter of objection has been received regarding the proposed work. Notwithstanding this, the objection letter received outlines that the individual welcomes the proposed work. Objections are raised on the following grounds:

1. The purpose of the groynes is to protect and retain the shore and sand. I am surprised that this application does not also request beach replenishment as this area has been severely depleted by channel dredging. Can this be considered as part of the review of the application?
2. Has consideration been given to the colour of the groyne material? So that it does not detract from the appearance of the ancient Town Wall monument?
3. And finally, have English Heritage reviewed and commented on the proposed works?

3.2 A further letter of support has been received as well as a letter of comment outlining the following:

1. Have lived here for 27 years and have gradually watched the groynes break down and disappear. Always wonder why they were not replaced/repared long before now. I am delighted something is going to be done at long last.

3.3 Copies attached, any further representations received will be tabled at the meeting.

### Consultations

3.4 The following consultation replies have been received:

**Traffic and Transportation** – There are no highway or traffic concerns with this application.

**Conservation Officer** – This application is adjacent to a number of designated heritage assets including the Town Wall, a scheduled ancient monument, Headland Conservation Area and five listed buildings (62 Southgate and 33-36 Town Wall).

No objections to this proposal. This is a scheme which works off existing foundations restoring the groynes which have been lost to erosion. As it is replacing existing works it will have minimum impact on the setting of the adjacent heritage assets.

English Heritage has been involved in pre-application discussions on this proposal and I understand that at the time they did not raise any objections.

**Council's Ecologist** - Fish sands was previously designated as a Site of Nature Conservation Interest in the 2006 Local Plan. It was de-designated at the last review as it did not support sufficient birds to meet current criteria for designation. However it does support small numbers of bird species which form part of the interest feature of Teesmouth and Cleveland Coast SPA/Ramsar. To avoid disturbance to those birds the work should avoid the times of year when they are present hence should be carried out between April and September.

**Headland Parish Council** – Comments Awaited

**Environment Agency** Comments Awaited

**Public Protection** – Comments Awaited

**Marine Management Organisation** – Comments Awaited

**English Heritage** – unless the groynes are attached in any way to the scheduled monument then, there is no need to consult EH on the proposed works. I have visited the site on numerous occasions and can also confirm that the proposed works to the groynes will have no adverse impact upon the setting of the Scheduled Monument. I would, however, urge you to involve Robin Daniels of Tees Archaeology in the consultation process. Obviously if the proposed works expose any archaeological remains outside of the scheduled area, on the beach, then Robin should be made aware and Tees Archaeology should be given the opportunity to record any finds.

**Tees Archaeology** - This is a repair/like for like replacement and is unlikely to have an archaeological impact. I understand that English Heritage have been consulted and are happy. I therefore have no objections to the proposal and have no further comments to make.

## **Planning Considerations**

3.5 The main planning considerations in this instance is the appropriateness of the proposals in relation to the relevant Development Plan Policies as set out in the

original committee report, including the principle of development, the impact on visual and residential amenity, landscape visual impact, the impact on the character and appearance of the Headland Conservation Area and the Town Wall (which is a scheduled ancient monument), ecology and biodiversity, coastal impact, flood risk and traffic and transportation.

### Principle of Development

3.6 PS25: Planning and Flood Risk aims to ensure that the risk of flooding is taken into account at all stages of the planning process. The supporting documentation submitted in support of the application indicates that the groynes have fallen into a state of disrepair. In the 1980's it was determined that due to the prevailing coastal processes, the groynes were no longer effective in retaining beach material and maintenance of them was ceased. It is therefore considered that the restoration and re-establishment of flood defences in this location is acceptable in principle in terms of the prevention of flood risk in accordance with PPS25 principles. In terms of the policies of the Hartlepool Local Plan 2006 the development is also considered acceptable. Detailed considerations are discussed below.

### Visual Impact and Residential Amenity

3.7 In terms of the restoration and re-establishment of the groynes, it is unlikely that the works will significantly impact upon the outlook and amenity of the occupants of the neighbouring properties and the surrounding area. Given that there is a significant change in levels between the properties and the beach area upon which the groynes are/will be located it is not considered that the groynes will be widely visible. Moreover, given tidal movements it is not considered that the groynes will be visible continuously.

3.8 Whilst it is acknowledged that there is the potential for amenity impacts from the construction phase in terms of potential noise and disturbance, it is considered that a condition restricting construction works to daytime hours would alleviate any concerns in terms of impact upon residential amenity.

3.9 In terms of visual impact, it is considered that the construction phase of the proposed scheme is likely to be the element of the proposal most likely to give rise to visual impacts in terms of the temporary site compounds, construction plant and temporary lighting, the full details of which can be satisfactorily dealt with by way of a suitably worded planning condition. It is considered that their impact will be of a temporary nature and it is considered therefore that the construction works are unlikely to have a significant adverse impact on visual amenity.

3.10 Concerns have been raised regarding the colour of the proposed groynes. With regard to this, Officers have sought clarification over the proposed materials to be used. The Council's Engineering Consultancy Section has advised that the existing/remains of the groynes is a mixture of concrete and concrete blocks. It is the Council's intention to repair and reuse as much of the existing groynes as possible. With regard to this, Planning Authority Officers consider that the works, subject to a materials condition, will visually tie into the existing groynes. Whilst it is acknowledged that the appearance of the groynes will differ to that of the Town Wall it

is not considered that the works will appear jarring or incongruous to a level whereby they will significantly impact upon the setting of the Town Wall, the listed buildings or the Headland Conservation Area.

3.11 Concerns have been raised regarding whether consideration has been given to the potential for beach replenishment as part of the proposed works. The Council's Engineering Consultancy Section has stated that the purpose of the groynes is to retain any fill material that the sea deposits in that area.

#### Landscape Impact

3.12 The surrounding landscape is a mix of coastal, industrial and urban elements. Given the temporary nature of construction works, it is unlikely they will have a significant impact on the surrounding landscape. Furthermore, given the extent of the works and that in the majority the works are to restore groynes which were previously in situ it is considered that the scheme itself is unlikely to have a significant landscape impact.

#### Impact on the character and appearance of the Headland Conservation Area and Scheduled Ancient Monument

3.13 Policy HE1 of the adopted Local Plan (2006) states that proposals for development in Conservation Areas will only be approved where it can be demonstrated that the development will preserve or enhance that character and/or appearance of the area. It is prudent to state that the site of the works is not actually within the Headland Conservation Area but actually abuts it. Furthermore the Town Wall, which is in close proximity, is a scheduled ancient monument. Given the nature of the proposed works it is not considered that they will detract from the Conservation Area, ancient monument or the listed buildings in close proximity. It is considered that the proposed works will preserve the appearance of the area in general.

3.14 With regard to comments enquiring whether English Heritage has commented on the proposed works. It is prudent to state that English Heritage was not formally consulted as part of the planning application. Officers have been in discussion with English Heritage regarding the works and they do not consider it necessary for the Local Planning Authority to consult them, provided that the proposed works do not attach in any way to the ancient monument. The Council's Engineering Consultancy Section has confirmed that the proposed works will not tie into the monument. It is not considered that the works affect the siting of the scheduled ancient monument. English Heritage advised officers to seek views of Tees Archaeology with regard to the proposed works. Tees Archaeology have viewed the proposed works and have no objections.

#### Highway Safety

3.15 Council's Traffic and Transportation section have raised no concerns with the proposals. It is considered therefore that the proposals are unlikely to have a significant impact on highway safety.

### Ecology and Biodiversity

3.16 The Council's Ecologist has advised that the site formed part of a previously designated site of Nature Conservation Interest in the 2006 Local Plan, however it was de-designated upon review as there was not sufficient birds in the area to support its inclusion. Notwithstanding this, the area does support a small number of the bird species which form part of the interest feature of Teesmouth and Cleveland Coast SPA/Ramsar. The Ecologist has advised that to avoid disturbance to birds the proposed works should avoid the times of the year when birds are present. An appropriately worded planning condition has therefore been proposed restricting works to be carried out only between April and September.

### **Conclusions**

3.17 With regard to the relevant national, regional and local planning policies, and the relevant material planning considerations as discussed above, on the basis of the information received it is likely that the recommendation will be favourable, however this is subject to the consideration of the outstanding consultees and neighbour responses. The conditions set out below are considered to be appropriate at the time of writing but may need to be amended and/or added to following the receipt of the aforementioned outstanding consultees.

**RECOMMENDATION** – Minded to Approve however due to outstanding publicity delegate the final decision to the Planning Services Manager. Should any objection be received delegate the final decision to the Planning Services Manager in consultation with the Chair of the Planning Committee.

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. Construction of the development hereby approved shall be carried out during the months of April to September inclusive only and at no other time unless otherwise agreed in writing by the Local Planning Authority.  
In the interests of biodiversity.
3. The construction of the development hereby approved shall only be carried out between the hours of 07:30 and 19:00 Mondays to Fridays inclusive, 07:30 and 16:00 Saturdays and at no other time on Sundays or Bank Holidays.  
In the interests of the amenities of the occupants of neighbouring properties.
4. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - (1) the parking of vehicles of site operatives and visitors;
  - (2) loading and unloading of plant and materials;



- (3) storage of plant and materials used in constructing the development;
- (4) the erection and maintenance of security hoarding;
- (5) wheel washing facilities;
- (6) measures to control the emission of dust and dirt during construction;
- (7) turning on site of vehicles;
- (8) the location of any site huts/cabins/offices;
- (9) the phasing of construction and subsequent access routes for HGV's, including estimated number of movements and duration together with the installation of temporary signage as appropriate on the highway network to direct construction traffic;
- (10) details of proposed temporary lighting;
- (11) details of isolated drainage systems for foul water to prevent discharge to surface or groundwater;
- (12) details of containment measures for fuels, oils and chemicals;
- (13) plans to deal with accidental pollution.

To ensure the site is developed in a satisfactory manner.

5. The development hereby permitted shall be carried out in accordance with the plan and details received by the Local Planning Authority on 10/01/2012 (Drg.No. PR461/PA), unless otherwise agreed in writing by the Local Planning Authority.

For the avoidance of doubt.

6. Final and large scale details, including separate cross sections of the three proposed groynes, showing the extent of the proposed proposed works for each groyne and location of the steps shall be submitted to and approved by the Local Planning Authority before development commences. Thereafter the development shall be carried out in accordance with the approved details.

In the interests of visual amenity and the character and appearance of the Conservation Area and the Town Wall.

*Imperial 7072.*

**Application No** H/2012/0015  
**Proposal** Restoration and re-establishment of groynes to front of Town wall  
**Location** Town Wall South Crescent  
**Case Officer** Richard Trow



10 FEB 2012

SCANNED

15 FEB 2012

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

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

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

*Have lived here for 27 years & have gradually watched the groynes break down & disappear. Always wondered why they were not replaced/ repaired long before now. I'm delighted something is going to be done at long last.*  
*Sally Kitchen*

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

<b>Name (Please print)</b>	SALLY KITCHING	<b>Mr/Mrs/Miss/Ms*</b>
<b>Address</b>	34 TOWN WALL	
<b>Date</b>	07-02-2012	
<b>Telephone number</b>	[REDACTED]	
<b>Email address</b>	[REDACTED]	

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

\* Please delete as appropriate

Official Use Only	
No objections	
Objections	
Comments	✓
Petitions	
No. of signatures	
For/Against	
Wishes to speak	
Entered in computer	✓

To: Development Control[DevelopmentControl@hartlepool.gov.uk];  
Sent: Mon 2/13/2012 1:53:07 PM  
From: Development Control  
Subject: Comment Received from Public Access

Application Reference No. : H/2012/0015  
Site Address: Town Wall Southgate HARTLEPOOL  
Comments by: Steve Latimer  
From:

Phone: [REDACTED]  
Email: [REDACTED]  
Submission: Support  
Comments: . . . and about time too!

\*\*\*\*\*

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✓ in update

**Richard Trow**

**From:** Gill Scanlon on behalf of Development Control  
**Sent:** 17 February 2012 15:30  
**To:** Richard Trow  
**Subject:** FW: Comment Received from Public Access

rt

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

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

**From:** Development Control  
**Sent:** 17 February 2012 12:51  
**To:** Development Control  
**Subject:** Comment Received from Public Access

Application Reference No. : H/2012/0015  
 Site Address: Town Wall Southgate HARTLEPOOL Comments by: Mr Gregory Purcell  
**From:**

33  
 Town Wall

Hartlepool

ts240jq

Phone:

Email:

Submission: Objection

Comments: Overall I welcome the proposed work, however, I object to the application on the following grounds;

- the purpose of groins is to protect and retain the shore and sand. I am surprised that this application does not also request beach replenishment as this area has been severely depleted by channel dredging. Can this be considered as part of the review of the application?
- has consideration been given to the colour of the groin material? so that it does not detract from the appearance of the ancient Town Wall monument?
- And finally, have English Heritage reviewed and commented on the proposed works?

Thankyou.

\*\*\*\*\*

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## PLANNING COMMITTEE

2 March 2012



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

**Subject:** APPEAL BY MR STEPHEN BATES  
APPEAL REF: APP/H0724/A/11/2161037 SITE AT:  
THE GRANGE, PIERCY FARM, DALTON PIERCY,  
HARTLEPOOL, TS27 3HS

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### 1. PURPOSE OF REPORT

1.1 To advise members of a planning appeal decision.

### 2 THE APPEAL

2.1 A planning appeal had been lodged against Hartlepool Borough Council against 17 planning conditions attached to planning permission H/2011/0232 (erection of a portico to main entrance, creation of bedroom above garage and installation of velux rooflight in garage roof (retrospective application)). The conditions appealed relate to an occupancy restriction on the house, removing permitted development rights from the site, restrictions on the business operation of the livery, conditions outlining the site area and a number of conditions attached to previous planning approvals at the site which have failed to be discharged.

2.2 The appeal was determined by Written Representations and conditions 2-18 of planning permissions H/2011/0232 have been deleted by the Planning Inspectorate. A copy of the decision is set out below.

### 3 RECOMMENDATION

3.1 That members note the decision.



## Appeal Decision

Site visit made on 29 November 2011

by **C J Checkley BA(Hons) MRTPI**

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

Decision date: 17 January 2012

**Appeal Ref: APP/H0724/A/11/2161037**

**The Grange, Piercy Farm, Dalton Piercy, Hartlepool, TS27 3HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Stephen Bates against the decision of Hartlepool Borough Council.
- The application Ref H/2011/0232, dated 21 April 2011, was approved on 7 September 2011 and planning permission was granted subject to conditions.
- The development permitted is erection of portico to main entrance, creation of bedroom above garage and installation of velux rooflight in garage roof (retrospective application).
- The conditions in dispute are Nos 2–18 inclusive, which state as follows:

2. The occupation of the dwelling shall be limited to a person solely or mainly employed in the business of commercial livery, currently occupying Piercy Farm, as delineated as a blue edge on the site location plan submitted on 21/04/2011, together with any resident dependents.  
Reason: To ensure that the dwelling is not used as general residential accommodation.

3. A scheme for the detailed design of the storm drainage system from the dwelling approved under planning application H/2008/0461 shall be submitted to and agreed in writing by the Local Planning Authority within one month of the date of this permission. Thereafter the scheme shall be implemented in accordance with the approved details at a time scale to be agreed with the Local Planning Authority.  
Reason: To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

4. 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 the dwelling house, without the prior written consent of the Local Planning Authority.  
Reason: To enable the Local Planning Authority to exercise control in the interests 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), no enlargements, improvements or other external alterations of the dwelling or hard surfaces within the curtilage shall be constructed, erected or carried out on the site.  
Reason: In the interests of visual amenity.

6. The use of the site, as delineated as a blue edge on the site location plan submitted on 21/04/2011 shall be for the stabling and keeping of horses owned by the site owner and the stabling and keeping of horses on a livery basis only.  
Reason: To ensure that the site operates in a way which will not be detrimental to the amenities of the occupiers of nearby houses.

7. No lessons, competitions, gymkhanas or events which would encourage visiting members of the public to the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011) shall be held at any time at the site without prior planning permission.  
Reason: To ensure that the site and building operates in a way which will not be detrimental to the amenities of the occupiers of nearby houses.

8. Final details for the layout of the parking area associated with the livery shall be submitted to and approved

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 Appeal Decision APP/H0724/A/11/2161037
 

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in writing by the Local Planning Authority within one month of the date of this permission.  
Reason: In the interests of visual amenity and highway safety.

9. A detailed scheme for landscaping and tree and shrub planting in accordance with the objectives of the Tees Forest shall be submitted to and approved by the Local Planning Authority within one month of the date of this permission. The scheme must specify types and species, indicate the proposed layout and servicing of all open space areas, including a programme of the works to be undertaken, and be implemented to the satisfaction of the Local Planning Authority upon completion of the development.  
Reason: In the interests of visual amenity.

10. Any trees or shrubs required to be planted in association with the dwelling house, and which are removed, die, are severely damaged, or become seriously diseased, within five years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.  
Reason: In the interests of visual amenity.

11. There shall be no burning of materials or waste at the site.  
Reason: In the interests of the amenities of the occupants of neighbouring properties.

12. Within one month of the date of this permission, a scheme for the storage and removal of manure arising from the stabling and keeping of horses at the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter the storage of manure shall only take place in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of the amenities of the occupants of neighbouring properties.

13. No fixed jumps shall be erected at the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011).  
Reason: In the interests of the amenities of the occupants of neighbouring properties.

14. Details of the siting of any temporary jumps to be used in the exercising of horses kept at the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011) shall be first agreed in writing by the Local Planning Authority. Temporary jumps shall thereafter only be sited in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of the amenities of the occupants of neighbouring properties.

15. No floodlight(s) or tannoy system(s) of any type shall be used or erected at the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011).  
Reason: In the interests of the amenities of the occupants of neighbouring properties.

16. The mature hedge to the east of the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011) shall be maintained at a minimum height of 4 metres, and no part shall be removed unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of visual amenity and to protect the health of the hedge.

17. Other than the existing access through the hedge on the eastern boundary of the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011) no excavations, construction or hardstanding shall be carried out within 3 metres of the centre line of the hedge to the east of the application site, unless otherwise agreed in writing by the local planning authority.  
Reason: In order to protect the health of the hedge.

18. The hedge along the southern boundary of the site (as delineated as a blue edge on the site location plan submitted on 21/04/2011) shall be fully gapped up and grown to be maintained at a height of 4 metres, in accordance with details to be agreed as part of the details required by condition 9 above unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of visual amenity.

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**Decision**

1. The appeal is allowed and planning permission Ref H/2011/0232 for erection of portico to main entrance and installation of velux rooflight in garage roof (retrospective application) at The Grange, Piercy Farm, Dalton Piercy, Hartlepool, TS27 3HS granted on 7 September 2011 by Hartlepool Borough Council is varied by deleting conditions 2-18 inclusive.

Appeal Decision APP/H0724/A/11/2161037

equestrian business. None of the repeated conditions relate directly to the entrance portico and velux window.

9. With respect to conditions 2 (dwelling occupancy restriction) and 6 (specified use of the site for stabling/livery only), the Council states (paragraph 6.13 of its Appeal Statement): *"Given the changes in boundaries associated with the dwellinghouse and the extensive planning history associated with the site and the Unilateral Undertaking, the Local Planning Authority considered it prudent to attach the conditions defining the site area in the interests of clarity for Officers and the site owner."*
10. With respect to all the other disputed conditions the Council states (paragraph 7.1 of its Statement) that *"...these consist of conditions from previous planning approvals which have failed to be discharged and conditions which restrict operations etc on the wider site attached again from previous permissions. Where appropriate the conditions have been amended to refer to a blue edge as outlined on Appendix O [the location plan from the appeal application]. Whilst the Local Planning Authority accept that all of the conditions could have been pursued by way of the previous approvals, they have been attached in the interests of expediency for the owner of the site and The Local Planning Authority to deal more effectively with the site."*
11. I find that the appeal application does not offer a legitimate vehicle for remedying or clarifying any errors or ambiguities the Council now perceives may exist in the wording of any of the conditions imposed on previous approvals or the extent of any previous application or ownership control boundaries. None of the disputed conditions relate directly to the specific development now under consideration. All the disputed conditions relate to previous developments that have already been granted permission. Conditions have been imposed on those earlier developments in the same or similar form to the disputed conditions. The Council accepts that all the conditions could instead be pursued under the previous approvals and this would be the appropriate way to deal with breaches of those conditions.
12. The Council raises no planning objections to the development subject to this application. It considers that the external works undertaken are acceptable in terms of siting and design and in keeping with the character and style of the existing property and previous extensions and I agree. The property is a considerable distance from any other residential properties and I agree that there would be no harm to the living conditions of any local residents as a result of the works.
13. I conclude that the imposition of conditions 2-18 inclusive on this permission on grounds that include expediency fails the tests for conditions set out in the Circular. Their imposition is not relevant to the development to be permitted, is not necessary and is not reasonable. I am therefore deleting each of conditions 2-18 inclusive. Condition 1 referring to the approved plans was not challenged and remains in place, being necessary for the avoidance of doubt and in the interests of proper planning.

*C J Checkley*

INSPECTOR



Appeal Decision APP/H0724/A/11/2161037

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### Main Issue

2. The main issue is whether the conditions in question meet the tests within *Circular 11/95: The Use of Conditions in Planning Permissions*.

### Reasons

3. I am treating the application as seeking retrospective permission for development already undertaken comprising the erection of a portico to the main entrance and the installation of a velux window in the garage roof (the creation of the bedroom within the roof space of the garage not being development requiring planning permission).
4. Paragraph 14 of *Circular 11/95: The Use of Conditions in Planning Permissions* (the Circular) explains that as a matter of policy conditions should only be imposed where they are: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. Paragraph 3 indicates that conditions may be imposed regulating the development or use of land under the control of the applicant even if it is outside the site which is the subject of the application.
5. The appeal site is a detached house standing in a field in the countryside outside the village of Dalton Piercy. Planning permission (reference H/2008/0461) was granted in November 2008 for the erection of a detached dwelling and the use of the land surrounding it in connection with and as an extension to the already existing livery and equestrian business on the adjoining land. The permission was subject to 20 conditions relating to the application site and adjoining land under the control of the applicant. One condition limited the occupation of the dwelling to a person solely or mainly employed in the business of commercial livery currently occupying Piercy Farm together with any resident dependents. The permission was also accompanied by a section 106 unilateral undertaking similarly restricting the occupancy of the dwelling. The conditions imposed are broadly repeated by the disputed conditions in this appeal.
6. In 2009 planning permission was granted for the house to be extended in the form of a sunroom to one side and a garage with a pitched roof to the other and the extensions were constructed.
7. At the time of my visit the further alterations described in the decision notice had been undertaken. This appeal relates purely to the specific development involved - the construction of the entrance portico and the installation of a velux window in the front slope of the pitched roof above the garage. This is important since the Circular requires that any conditions must be both relevant to the development to be permitted and necessary. Paragraph 24 of the Circular makes clear that unless a condition relates fairly and reasonably to the development to be permitted, it will be *ultra vires*. The need for each of the conditions imposed has to arise as a result of the specific development under consideration, not simply in order to resolve an existing problem.
8. Conditions 2-18 under dispute are in each case a repetition, sometimes with minor amendments that may include references to a more specific area of land, of conditions imposed on permission H/2208/0461 for the erection of the detached house and the use of land in connection with the existing livery and

## PLANNING COMMITTEE

2 March 2012



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

**Subject:** APPEAL REF: APP/H0724/C/11/2164176  
UNAUTHORISED ERECTION OF A GARAGE TO  
FRONT OF PROPERTY CAMERON LODGE,  
SERPENTINE ROAD, HARTLEPOOL, TS26 0HE

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### 1. PURPOSE OF REPORT

- 1.1 To notify members of the outcome of the above Enforcement Appeal which was determined by written representations.

### 2. APPEAL

- 2.1 The appeal was dismissed and the Enforcement Notice upheld.
- 2.2 A copy of the Inspector's decision is attached.

### 3. RECOMMENDATION

- 3.1 That members note the decision.



The Planning  
Inspectorate

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## Appeal Decision

Site visit made on 17 January 2012

**by B.S.Rogers BA(Hons), DipTP, MRTPI**

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

Decision date: 1 February 2012

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**Appeal Ref: APP/H0724/C/11/2164176**

**Cameron Lodge, Serpentine Road, Hartlepool, TS26 0HE**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R.E.Norton against an enforcement notice issued by Hartlepool Borough Council.
- The Council's reference is: ENF/2011/00005.
- The notice was issued on 10 October 2011.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a single storey garage to the front of the property.
- The requirements of the notice are to remove the structure from the property in its entirety.
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
- Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: The appeal is dismissed and the notice is upheld.**

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### The appeal on ground (c)

1. The garage which is the subject of this notice has been erected to the south side of Cameron Lodge, a detached bungalow. The garage is a lightweight, timber framed structure, which the appellant states is intended to be temporary, to store an historic vehicle whilst it is being restored.
2. The definition of development in Section 55 of the 1990 Act includes the carrying out of building operations which, for the purposes of the Act, include "other operations normally undertaken by a person carrying on business as a builder". The courts have identified three primary factors as being relevant to the question of what is a building, namely size, permanence and physical attachment. In this case, the structure is of substantial size and appears to have been constructed on site, rather than transported to the site. It appears to be permanent in the sense that it is neither readily demountable nor moveable, and would be kept on site in this position for a substantial period of time, possibly extending into years. Although it appears to be attached to the ground simply by gravity and has no service connections, on balance it is my view that the garage falls within the definition of "development".
3. The appellant considers the garage to be permitted development under the provisions of Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The Council accepts that it is a building required for a purpose incidental to the enjoyment of the

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Appeal Decision APP/H0724/C/11/2164176

dwellinghouse as such and that it meets all but one of the criteria of Class E. That in question is E.1.(b):- *"any part of the building ..... would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse"*.

4. The GPDO does not define 'principal elevation'. However, guidance may be found in Permitted Development for Householders: Technical Guidance, published by DCLG in August 2010. This states that *"In most cases, the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house. ... It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house."*
5. In the present case, the bungalow is unusual in that it has been designed to be positioned at right angles to, rather than facing, Serpentine Road. The elevation facing the road, as originally built, contains 2 secondary windows to a living room plus a kitchen window; the pattern of this fenestration has no coherent design. By way of contrast, the south elevation has a far more imposing and architecturally coherent design. It contains a central main entrance with an open porch and 2 matching bay windows arranged symmetrically around it; each bay window is the main window to a living room. There is no doubt in my mind that the south elevation is the principal elevation of the dwellinghouse.
6. The garage in question is situated forward of the principal elevation and therefore does not meet criterion E.1.(b). The garage does not benefit from permitted development rights and the appeal on ground (c) fails.
7. The planning merits of the garage are not matters before me and there has been no appeal on ground (g) which would have enabled me to consider whether the time for compliance is appropriate.

#### **Formal Decision**

8. The appeal is dismissed and the enforcement notice is upheld.

*B.S. Rogers*

Inspector

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2

## PLANNING COMMITTEE

2 March 2012



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

**Subject:** APPEAL REF: APP/H0724/A/11/2162025 JOE'S  
SKIPS BRENDA ROAD HARTLEPOOL (H/2011/0055)

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### 1. PURPOSE OF REPORT

1.1 To notify Members of the outcome of a planning appeal.

### 2. BACKGROUND

2.1 To inform Members that a planning appeal has been determined in relation to the refusal of the Local Planning Authority to grant planning permission for the 'change of use' to a waste transfer station/recycling facilities and associated works (re-submitted application) at Joe's Skips, Brenda Road.

2.2 The appeal was refused for the following reasons:

"It is considered that the proposed waste transfer station/recycling facility is sited outside of the area allocated for 'Bad Neighbour Uses' and would be detrimental to the amenities and living conditions of nearby residential properties contrary to policies GEP, Ind5 and Ind6 of the adopted Hartlepool Local Plan 2006."

"It is considered that the proposed development would compromise the strategic aims for sub-regional waste planning set out in the Tees Valley Minerals and Waste DPDs as there is sufficient provision for waste management capacity within existing sites, and the proposal would be contrary to Policy MWP4 and MWC8 of the Tees Valley Minerals and Waste DPDs (2011) which identifies the Graythorp area as the strategic location for the provision of waste management facilities within Hartlepool".

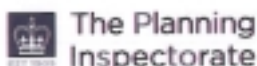
2.3 The appeal was decided by the written representations procedure.

2.4 The appeal was allowed subject to conditions. The appellant was also awarded costs. A copy of these letters is attached.

**3 RECOMMENDATION**

3.1 That Members note the appeal.





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## Appeal Decision

Site visit made on 9<sup>th</sup> January 2012

**by Jonathan G King BA (Hons) DipTP MRTPI**

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

Decision date: 30 January 2012

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**Appeal Ref: APP/H0724/A/11/2162025**

**Joe's Skips, Brenda Road, Hartlepool TS25 2BW**

- 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 Frederick Randall against the decision of Hartlepool Borough Council.
  - The application Ref H/2011/0055, dated 30<sup>th</sup> January 2011, was refused by notice dated 17<sup>th</sup> June 2011.
  - The development proposed is the change of use to a waste transfer station / recycling facility and associated works (re-submitted application).
- 

### Decision

1. The appeal is allowed and planning permission is granted for the change of use to a waste transfer station / recycling facility and associated works at Joe's Skips, Brenda Road, Hartlepool TS25 2BW in accordance with the terms of the application, Ref H/2011/0055, dated 30<sup>th</sup> January 2011, subject to the conditions included in the attached Annex.

### Application for costs

2. An application for costs was made by Mr Randall against Hartlepool Borough Council. This application is the subject of a separate Decision.

### Procedural matter

3. The application form indicates that the use of the site for waste transfer had already commenced. A date of 2<sup>nd</sup> May 2010 is given. Although at the time of my visit the site was not in active use, I nonetheless consider the appeal as being in relation to a retrospective application.

### Main Issues

4. The main issues in this case are:
  - (a) the implications of the development for the achievement of the objectives of strategic planning for waste management in the Tees Valley; and
  - (b) the effect of the proposed development on the living conditions of the occupiers of dwellings in the vicinity.

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Appeal Decision APP/H0724/A/11/2162025

## Reasons

### *Strategic waste planning objectives*

5. When the Council determined the application, it had regard both to the development plan extant at the time (the Hartlepool Local Plan 2006) and to emerging Plans (the Tees Valley Minerals & Waste DPDs 2011, comprising the Core Strategy and the Policies & Sites DPD). However, in the second reason for refusal, to which this issue relates, it made reference solely to the latter. Since then (in September 2011), the DPDs have been adopted.
6. The decision relies upon a claimed conflict between the development and Policies MWC8 of the Minerals & Waste Core Strategy (MWCS) and MWP4 in the Policies and Sites DPD (PSDPD). The first, amongst other things, identifies 3 general areas where allocations and proposals for large waste management facilities should be located; and the second allocates a site at Graythorp Industrial Estate, Hartlepool for the management and recycling of 65,000 tonnes per annum of commercial and industrial waste by 2021. The appeal site is outside these designated areas. However, and critically for this appeal, Policy MWC8 also indicates that small sites will be provided throughout the plan area where they would be well-related to the source of waste arisings or the market for any materials produced. This is the second leg of what the CS describes as 2 complementary approaches to site allocation. The CS indicates that smaller, more dispersed sites can be more sustainable in terms of the length and number of the journeys required to transport the waste and be more convenient to local populations.
7. Small sites are defined in the CS as those generally under 1 hectare in size and dealing with up to 25,000 tonnes per year. By these measures, the appeal proposal should be regarded as a "small site", as the throughput of waste is estimated to be in the region of just 200t per week, or around 10,000t a year; and the site area is less than half a hectare. The Council is concerned that the actual quantities could in practice be greater, but I am content that this is a site to which the "small sites" provisions should apply.
8. The detailed approach to small sites is given direct effect by PSDPD Policy MWP12 which sets out criteria of acceptability for waste management operations involving the sorting, recycling or recovery of value from municipal solid waste and commercial and industrial waste. I consider the criterion relating to amenity under my second issue. But I am reasonably satisfied that the site meets the remainder: first, it is on land where there is an existing industrial use – in this case, the land has been in use as a scrapyard; second, since it is in an area of industrial and commercial uses, but also convenient to residential areas, it would appear to be well-located in relation to sources of waste or markets for any materials produced; and third, there is no evidence that it would give rise to any highway or traffic-related problems – it fronts a road giving access to several industrial and commercial enterprises, and no objection was raised by the highway authority.
9. The Council's resistance to granting permission rests on the assertion that the projected need for waste management facilities is met through the site allocations elsewhere in the Tees Valley. But, as indicated above, the strategy of Policy MWC8 of the newly-adopted CS encompasses both the allocation of large sites and the promotion of small sites. The approach taken by the

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Council in relation to this appeal effectively discounts the second leg of the policy. That is unreasonable, in my view. The strategy does not rely on small sites primarily in order to provide sufficient waste management provision in quantitative terms, but in order to promote a sustainable pattern of waste development as part of the wider framework. Even if there is, or would be sufficient waste management capacity solely in the main allocated sites and areas, there would be no justification for opposing additional small sites which are intended to contribute to the achievement of the overall strategy. Moreover, there is no evidence that the development under consideration would cause any harm or otherwise prejudice the delivery of the larger allocated sites or the strategy of which they form part. In my view, the Council has misapplied its policies.

10. Subject to consideration of my second issue, I conclude that the proposed development would not cause any material harm to, or otherwise compromise the strategic aims for sub-regional waste planning as set out in the Tees Valley Minerals and Waste DPDs.

#### *Living conditions*

11. The remaining criterion of Policy MWP12 is that small waste facilities should not create any unacceptable impacts on the amenity or operational viability of neighbouring land uses either on their own or cumulatively. Cumulative impact is not relevant in this case, as there are no other waste sites in the vicinity.
12. The Council's Committee report makes reference to the potential for harm to an aquifer; to pollution of local drains and ponds; and to the potential for noise, odour, dust, vibration, litter, and vermin to adversely affect residential occupiers and workers at nearby industrial uses. But the relevant reason for refusal solely concerns the impact of the development on the amenities and living conditions of nearby residential properties. However, the particular effects which underlie its concerns are not identified.
13. I do not dispute that waste transfer stations can cause undesirable environmental effects: noise and dust are 2 obvious possibilities in relation to activities which involve handling waste in the open air. Smell, flies other vermin can arise if putrescible waste is not properly handled; and windblown litter may be created if lightweight wastes are not handled appropriately. This site has the potential to do likewise if not operated properly; and the Council is right to consider the issue. But it is also obliged to consider whether it would be practicable to prevent or control any such nuisance, either through the design of the facility or by way of conditions. The Costs Circular (03/2009) makes specific reference to this.
14. The types and quantities of waste received at the site and the way in which it should be handled would in any event have to be subject to an Environmental Permit (EP) issued by the Environment Agency. In this case, the Agency does not object to the development subject to conditions. Similarly, the Council's own Head of Public Protection does not raise any objections in principle, subject to conditions being imposed on any planning permission. The appellant is content to have the types of waste limited to those which would not occasion odour or flies; and has suggested a number of conditions which might reasonably be imposed in order to address the Council's other concerns. The Committee report acknowledges that there are measures that can be undertaken to deal with the potential causes of harm, but does not explain

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properly why they would not be capable of ensuring adequate protection of residential amenity in this case. While acknowledging that the presence of food or other putrescible waste might be an isolated occurrence, it maintains a concern that not all would be separated and removed. I am wholly unconvinced by this argument. Even if small quantities of putrescible wastes were to be brought on to the site, there is no basis on which to conclude that it would give rise to any significant harm provided that a suitable condition relating to its handling were imposed and complied with.

15. I understand that a complaint about the site was received by the Council in 2009, but from what I have read, it appears that this related to the unauthorised importation of waste and the erection of waste bays. I am not aware that any harm to the environment or to amenity was reported. A representation from the operators of the nearby steelworks alleges vehicle parts and oil pollution found in nearby ponds. But that would appear to be more related to the former scrapyard use. It appears that no other complaints have been received, although the site was active over a period of time, albeit without permission. That should have given the Council a good practical indication of whether harm would be occasioned to any local residents. It has not identified any such harm.
16. I am satisfied that, subject to suitable EP and planning conditions being imposed, there is very little likelihood of any reduction in the quality of life for the occupiers of houses in the Seaton Carew and Seaton Lane areas, some 330-350 metres away. There is no evidence to suggest that it would. However, even with very strict controls, the potential for the facility to affect the occupiers of the single house about 50 metres along the road cannot be discounted in view of its proximity. Noise from the movement of skips is an example. But this must be set in the broader context. The house is already set amongst industrial uses. Between it and the appeal site are industrial buildings at a former garage. To the other side is a large building which is in use by a paint spraying company and as a truck-stop. Opposite is an engineering works; and nearby along the road are several other uses including a haulage depot, a pallet recovery operation, a highways salt store and the open storage on land of demolition waste, all of which to varying degrees may be capable of affecting the amenity of the residents. A little way to its rear is a very substantial steel manufacturing plant; and there is a significant amount of heavy traffic using Brenda Road.
17. Moreover, the appeal site has until fairly recently been in use as a scrapyard, which use could itself have consequences for the environment and amenity. The likelihood is that, if the site were not to be used as proposed, it could revert to the scrapyard use or be developed with an industrial use. Either could have some potential to affect the amenity of those living close by to an extent not significantly less than a waste transfer station. In short, taking into account the existing industrial environment, and subject to suitable conditions being imposed on the Environmental Permit and the planning permission, I am reasonably satisfied that the living conditions of the occupiers of this house would not be materially diminished by what is proposed.
18. Policies GE1, Ind5 and Ind6 of the Hartlepool Local Plan 2006, which were also relied on in this context, were at the time of determination of the application "saved" policies. The Council states that, on adoption of the Waste Development Plan Documents (DPDs), all saved waste policies will be replaced.

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The policies in question relate respectively to *general environmental principles*; to *industrial areas*; and to *bad neighbour uses*. All to some extent are relevant to waste management uses though, because they also have wider relevance, it is unclear to me whether they have been fully superseded or not. Nonetheless, with respect to locational policy, I am satisfied that Policy Ind6, which directs bad neighbour uses to part of the Sandgate area, must be effectively superseded by the provisions of the new DPDs with respect to the distribution of waste management facilities. In any event I note that within the last year, the Council has refused permission for a very similar type of development in that location [Ref H/2011/0015 – appeal dismissed ref APP/H0724/A11/2157369]), suggesting that it is no longer directing bad neighbour uses there. So far as environmental consequences are concerned, the tests imposed by the relevant parts of all 3 policies, though more detailed than the appropriate criterion of the new Policy MWP12, are not significantly different in effect. I conclude that, insofar as these policies may still be relevant, there is nothing in them which supports dismissing the present appeal.

#### Conditions

19. The Council has submitted a schedule of conditions which in its view should be imposed in the event that the appeal is allowed. A number would almost certainly overlap with conditions relating to similar matters that I would expect to be attached to an Environmental Permit. Circular 11/95 *The Use of Conditions in Planning Permissions* advises that planning conditions should not duplicate matters that are properly the responsibility of other regimes of control. Ideally the consideration of a planning permission and an EP should be co-ordinated but, unfortunately, I have not seen a draft of an EP, nor can I know exactly what conditions would be attached. In such circumstances it would be imprudent not to impose a condition in the expectation that it would be attached to an EP. In the absence of certainty in the matter, therefore, and at the risk of introducing some duplication, I shall take a cautious approach. Where I consider a condition to be necessary in the interests of controlling pollution or other environmental effects, I shall impose it. This includes a prohibition of certain wastes as recommended by the Council and a definition of the general nature of the development as: *the transfer and processing of recyclable and non-hazardous waste and materials, as well as the storage of skips and associated plant*.
20. As the application was retrospective and the use had already commenced, albeit suspended at the time of my visit to the site, there is no need for the usual time limit for commencement. However, for the avoidance of doubt I shall indicate the approved plans. The Council suggests that the deposition and processing of waste should be restricted to specified areas as identified on the submitted plans. For clarity, I shall describe this as the shaded area of hardstanding on the relevant plan, thereby excluding the parking area and vehicle and plant storage area, located to the front of the site, and the area to the rear which is to be laid to grass. The submitted plan implies that waste piles will not exceed 2.5 metres in height, but again for clarity I will make this explicit. In order to address the Council's concerns with respect to the effects of putrescible or organic waste, I shall require it to be separated from the waste, stored and thereafter transferred from the site within 48 hours of arrival. Similarly, in order to overcome the potential for nuisance through smoke and smell, burning will be prohibited.



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21. The Council's suggested conditions also require a number of schemes and detailed matters to be submitted, approved and implemented, relating to details of the site drainage; the waste bays; wheel washing; catch fencing; dust suppression; and hard surfacing. In every case, I agree the need for these to be addressed in order to minimise the potential for pollution or other harm to the environment or amenity. But as drafted there is no consistency in the timing of their implementation. To my mind, all should be carried out according to the same time scale. Not only would that ensure clarity and simplicity, allowing effective monitoring and enforcement, but it would also ensure proper co-ordination between the different elements of the development. For example, there are functional and practical links between the provision of hard surfacing; the bays; wheel washing; dust suppression – which can involve water sprays – and drainage. Each element of the design is part of the whole.
22. All except one of the Council's draft conditions are acceptable to the appellant. This relates to the requirement for a drainage scheme for the site to be in place before any more waste is brought on to the site. Though I appreciate that the site would have to be out of operation until the scheme was submitted, approved and implemented, with possible financial implications for the operator, I agree with the Council's approach. Owing to the potential for ground and surface water pollution from wastes, and in view of the previous use of the site as a scrapyard, which may have caused ground contamination, I consider it essential that the arrangements for site drainage should be in place before the use (re)commences and before there is any disturbance to the ground. In any event, it seems to me that it would be very awkward practically to undertake an effective scheme of drainage if the site was operational and occupied by a quantity of waste. I shall therefore impose the condition as the Council intend it.
23. Having regard to my earlier observations about the need for co-ordination between the various details and the advisability of ensuring that appropriate mitigation measures are in place right from the start, I shall also require the other matters to be submitted, approved and implemented before additional waste is brought on to the site.
24. In the interests of clarity and consistency and in order to avoid unnecessary duplication, I shall combine the various requirements. In so doing, I will take the opportunity to remove the reference to *"unless otherwise agreed in writing by the local planning authority"*. The use of that approach is discouraged in Circular 11/95 as it purports to provide an informal procedure to waive or modify the effect of a condition.
25. The EA has recommended 1 additional condition, concerning the need for a scheme to deal with risk associated with contamination of the land. In view of the former use of the site, I agree this is necessary in the interests of avoiding ground- and surface-water pollution. I shall incorporate it into the combined conditions discussed above. Although only part of the site would be used operationally, with the remainder laid to grass, I consider it prudent for the scheme to relate to the whole site, as there could be opportunity for ground disturbance anywhere on the site during preparatory works.

*Jonathan G King*

Inspector

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#### ANNEX - Conditions

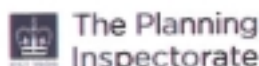
- 1) The development hereby permitted shall be carried out in accordance with plans 1022/001B and 1022/002A and the details received by the local planning authority on 1<sup>st</sup> February 2011.
- 2) The development hereby permitted relates only to the transfer and processing of recyclable and non-hazardous waste and materials, and to the storage of skips and associated plant.
- 3) No special wastes as defined in the Hazardous Waste (England and Wales) Regulations 2005 (or any regulations / order revoking or re-enacting them, with or without modification), noxious sludge, chemical or toxic forms of waste or contaminated liquids shall be deposited, processed or stored on the site.
- 4) Any putrescible or organic waste found within incoming loads shall be separated from the waste and stored in sealed container(s) and thereafter transferred from the site within 48 hours of its arrival.
- 5) Waste brought on to the site shall be deposited and processed only on the area of hardstanding shaded on Plan 1022/001B received by the local planning authority on 1st February 2011 and shall not be stored to a height exceeding 2.5metres.
- 6) Notwithstanding the submitted details, the following shall be submitted to and approved in writing by the local planning authority before any further materials or waste are brought on to the site:
  - (a) a scheme for the collection and disposal of surface, foul or contaminated water;
  - (b) a scheme to deal with risk associated with contamination of the application site edged red on Plan 1022/001B;
  - (c) a scheme for dust suppression, including the details of equipment;
  - (d) a scheme to ensure that deleterious materials are not taken on to the highway, including a wheel cleaning or washing facility;
  - (e) a scheme to prevent litter from being blown beyond the confines of the site, including details of the height and design of catch fencing to be placed around the boundaries of the site;
 and details of:
  - (f) all proposed hard surfaces on the site;
  - (g) the design of bays for the storage of waste and other materials;
 The development shall be carried out in accordance with the schemes or the details approved by the local planning authority.
- 7) The schemes and works approved under condition 6 shall all be retained fully functioning in accordance with their specification as approved for the lifetime of the development,
- 8) The site contamination risk assessment required under condition 6 (b) shall comprise the following components:
  - (a) a preliminary risk assessment which shall identify:
    - all previous uses;

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- potential contaminants associated with those uses;
  - a conceptual model of the site indicating the sources, pathways and receptors; and
  - potentially unacceptable risks arising from contamination at the site;
- (b) a site investigation scheme based on (a) to provide detailed information for a detailed assessment of the risk to all receptors that may be affected including those off-site;
- (c) the results of the site investigation and detailed risk assessment referred to in (b) and based on these; an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; and
- (d) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- The scheme shall be implemented as approved.
- 9) There shall be no burning of any materials or waste on the site.

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## Costs Decision

Site visit made on 9<sup>th</sup> January 2012

by Jonathan G King BA (Hons) DipTP MRTPI

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

Decision date: 30 January 2012

### Costs application in relation to Appeal Ref: APP/H0724/A/11/2162025 Joe's Skips, Brenda Road, Hartlepool TS25 2BW

- 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 Frederick Randall for a full award of costs against Hartlepool Borough Council.
- The appeal was against the refusal of the Council to grant planning permission for the change of use to a waste transfer station / recycling facility and associated works (re-submitted application).

### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

1. This application for costs is considered in accordance with the policy guidance of DoE Circular 03/2009 (the Circular) and all the relevant circumstances. Irrespective of the appeal outcome, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expenditure unnecessarily.
2. A number of important principles are set out in the Circular. In particular, planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted having regard to the development plan, national policy statements and any other material considerations (para B15); and they will be expected to produce evidence to show clearly why development cannot be permitted. The decision notice should be carefully framed and should set out the full reasons for refusal, which should be complete, precise, specific and relevant to the application. The key test will be whether evidence is produced on appeal which provides a respectable basis for the authority's stance (para B16).
3. I consider the costs application by reference to the 2 main planning issues raised in the reasons for refusal.

#### *The effect on residential living conditions*

4. With respect to evidence, Paragraph B16 of the Circular says that *authorities ... will be expected to produce evidence at the appeal stage to substantiate each reason for refusal; and that vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, are more likely to result in a costs award.*

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5. Paragraph B25 adds that *whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. They should consider any conditions proposed to them before refusing permission. A planning authority refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.*
6. In relation to advice received by a planning authority in the course of determining a planning application, Paragraph B24 says that what matters in a costs application is whether or not the authority can show good reason for accepting, or rejecting, the advice of a consultee.
7. In this case, at the application stage the appellant suggested to the Council a number of conditions intended to address environmental matters. These were noted in the Council's Committee report, though only partially. The Council also received the advice of its Head of Public Protection and the Environment Agency, neither of whom raised any serious concerns, subject to conditions being imposed. Against that background, the Council acknowledged that *there are measures which can be undertaken to deal with pollutants such as noise, odour, dust, vibration, litter vermin etc.* That notwithstanding, it went on to conclude that *the risk is great given the proximity to residential properties;* and, in the first reason for refusal, that *the use would be detrimental to the amenities and living conditions of nearby residential properties.*
8. Neither in its Committee report nor in its subsequent appeal statement has the Council provided any robust or objective evidence to substantiate its conclusions: first that the use would be harmful to residential amenity; and second, that that any necessary measures to protect that amenity could not be ensured by way of condition. It draws attention to the open-air nature of the operation and suggests that the use may create more dust, litter or odours than the previous use as a scrapyard, but the conclusion that the living conditions of the occupiers of residential properties over 300 metres away is no more than assertion. I understand that the use had been in unauthorised operation for some considerable time without complaint about its effects on residents. While not conclusive, that suggests the opposite of what the Council claimed.
9. Fears were expressed about the consequences of food waste contained within skip-loads of general waste. But even then the Council accepted that it could be removed and would be an isolated occurrence. There is no evidence to show that any small quantities of food that were not removed would give rise to harm to amenity, particularly bearing in mind the distance between the site and all but one dwelling. In the words of Paragraph B16, these are no more than generalised assertions unsupported by objective analysis.
10. The decision notice does not set out the full reason for refusal. For example, it does not state what, in the authority's opinion, would be the cause of the harm to living conditions it alleges. It is therefore neither complete, precise nor specific.
11. By reference to Paragraph B24 of the Circular, it is also unclear why the Council should not have accepted the implied views of the Head of Public Protection and the Environment Agency that the environmental consequences of the use could be controlled by means of conditions.



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12. In my consideration of the appeal, I conclude that, together with the control which would be applied by the Environment Agency through an Environmental Permit, suitable planning conditions would be sufficient to ensure that the use would not give rise to unacceptable harm to the living conditions of the residential occupiers.
13. Having regard to the foregoing, I now conclude that the Council failed to act in accordance with Paragraphs B16, B24 and B25. In short, it did not provide a respectable basis for its stance; and, in so doing, it acted unreasonably.

*Policy and the effect of the development on waste strategy*

14. In my appeal decision, I conclude that the Council misapplied the policies of its emerging DPDs. In particular, it failed to apply those parts of Policies MWC8 in the Minerals and Waste Core Strategy and MWP12 in the Policies and Sites DPD, both of which promote the establishment of small sites as an integral part of its overall locational strategy. Moreover, even though an appeal decision addressing a very similar issue had been issued on 8<sup>th</sup> November in relation to a site on the Sandgate Industrial Estate – and on which costs were awarded against the Council – it did not take the opportunity to revise its stance in its appeal statement, something advised in Paragraph B56 of the Circular.
15. The Council rightly observes that, at the time of making its decision, the DPDs had not been adopted. However, the reason for refusal is clearly and solely linked to policies in those plans. It is not the case that this element of the decision had been made on the basis of an earlier or superseded Plan.
16. I conclude that the Council acted unreasonably in that, insofar as it relied on the emerging development plan to support of its decision with respect to the effect of the development on the strategic waste management strategy for the Tees Valley, it misapplied that policy, contrary to Paragraph B15 of the Circular.
17. In view of my conclusions with respect to unreasonable behaviour, I also conclude that an award of costs is justified.

**Costs Order**

18. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hartlepool Borough Council shall pay to Frederick Randall the costs of the appeal proceedings described in the heading of this decision.
19. The applicant is now invited to submit to Hartlepool Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Jonathan G King*

Inspector