

PLANNING COMMITTEE AGENDA



Wednesday, 27th September, 2006

at 10.00 a.m.

in Committee Room 'B'

MEMBERS OF PLANNING COMMITTEE:

Councillors D Allison, Belcher, R W Cook, S Cook, Henery, Iseley, Kaiser, Lauderdale, Lilley, Morris, Payne, Richardson, M Waller, R Waller, Worthy and Wright.

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To confirm the minutes of the meeting held on 30th August 2006 (*to follow*)

4. ITEMS REQUIRING DECISION

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

- | | | |
|----|-------------|-----------------------------|
| 1. | H/2006/0334 | Baker Petrolite |
| 2. | H/2006/0304 | Shu-Lin |
| 3. | H/2006/0506 | Rear of 1 Blakelock Gardens |
| 4. | H/2006/5921 | Teesbay Retail Park |
| 5. | H/2005/6033 | Meadowcroft |
| 6. | H/2006/0516 | Warren Road/Easington Road |
| 7. | H/2006/0572 | Eldon Grove Primary School |
| 8. | H/2006/0541 | 116 Elwick Road |

4.2 Update on Current Complaints – *Head of Planning and Economic Development*

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

6. **FOR INFORMATION**

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of Monday 23rd October 2006 at 10.00 am

Next Scheduled Meeting – Wednesday 25th October 2006 at 10.00 am

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

30th August, 2006

Present:

Councillor Bill Iseley (In the Chair)

Councillors Rob Cook, Shaun Cook, Stan Kaiser, Geoff Lilley, Dr George Morris, Robbie Payne, Maureen Waller, Ray Waller, Gladys Worthy and Edna Wright

Also Present: In accordance with Paragraph 4.2 (ii) of the Council's Procedure Rules; Councillor Jonathan Brash as substitute for Councillor Carl Richardson and Councillor Griffin as substitute for Councillor Belcher.

Officers: Tony Brown, Chief Solicitor
Richard Teece, Development Control Manager
Roy Merrett, Principal Planning Officer
Sylvia Tempest, Environmental Standards Manager
Chris Roberts, Development and Co-ordination Technician
David Cosgrove, Principal Democratic Services Officer
Jo Wilson, Democratic Services Officer

46. Apologies for Absence

Apologies for absence were submitted from Councillors Stephen Belcher, Gordon Henery and Carl Richardson.

47. Declarations of interest by members

Councillor Kaiser declared a private and personal interest in Planning Applications H/2006/0027 and H/2006/0338

48. Confirmation of the minutes of the meeting held on 2nd August, 2006

Confirmed.

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

The following planning applications were submitted for the Committee's determination.

Number: H/2006/0516

Applicant: Mr Nigel Dawson, H M C Group Limited, Keel Row, 12 Watermark, Gateshead.

Agent: Mackellar Architecture Limited, Mr Brian Wood, 77-87 West Road, Newcastle Upon Tyne.

Date received: 06/07/2006

Development: Erection of a 3 storey, 80 bedroom care home with car parking.

Location: Land at corner of Warren Road and Easington Road, Hartlepool.

Representations: Mr J Wyatt, (applicant's representative) and P Conlon (objector) were present at the meeting but did not address the Committee.

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

Number: H/2006/0338

Applicant: Mr W Morgan

Agent: B3 Burgess, 3rd Floor Grainger Chambers, 3-5 Hood Street, Newcastle Upon Tyne.

Date received: 03/05/2006

Development: Erection of a 50 bed residential care home and 4 blocks of apartments comprising 30 dwellings for occupation by people aged over 55.

Location: On The Corner of The Wynd Wynyard, Billingham.

Representations: Mr J Wyatt, (applicant's representative) and Mr Bob Bussey (objector) were present at the meeting and addressed the Committee. The Committee also considered written representations in relation to this matter.

Decision: **Minded to APPROVE subject to a legal agreement under S106 of the Planning Act to secure a travel plan aimed at transporting staff to the site, a restriction on the occupancy of the apartments to people 55 and over securing the proposed care elements for occupiers of the apartments in perpetuity and to a requirement for the additional parking spaces to be put in place in the future**

should the Local Planning Authority decide this to be necessary and the following condition(s).

In accordance with Council Procedure Rule 17.5, Councillor Wright requested that her vote against the above decision be recorded.

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.
In the interests of visual amenity.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
5. The kitchen windows serving the specific type B apartments shown on the attached plan shall be obscure glazed.
In order to protect the privacy of residents.
6. The car parking scheme hereby approved shall be completed prior to the development hereby approved being brought into use.
In the interests of highway safety.
7. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined

through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Redamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Redamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.

To ensure that any site contamination is addressed.

8. No development shall take place until a scheme for the protection during construction works of all trees to be retained on or adjoining the site, in accordance with BS 5837:2005 (Trees in relation to construction - Recommendations), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.

In the interests of the health and appearance of the preserved tree(s).

9. A detailed scheme for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented before the development hereby approved is brought into use.

In the interests of visual amenity.

10. The cycle parking facilities hereby approved shall be made available for use before the care home is brought into use.

To ensure facilities for means of transport other than the car are available on site.

Number: H/2006/0027

Applicant: HMC Group Ltd, HMC House Keel, Keel Row, 12 The Watermark, Metro Gateshead

Agent: Signet Planning Ltd, 12B Hombeam Park, Oval Hombeam Park, Harrogate.

Date received: 13/01/2006

Development: Erection of a children's nursery with associated parking.

Location: Land Off The Wynd, Wynyard, Billingham.

Representations: Mr John Wyatt (applicant) and Mr John Gardner (Objectors representative) were present at the meeting and addressed the Committee. The Committee also considered representations in relation to this matter.

Decision: **Planning Permission Refused.**

In accordance with Council Procedure Rule 17.5, Councillor Wright requested that her vote in support of the above decision be recorded.

REASONS FOR REFUSAL

1. The application site lies outside the limits to development for Wynyard identified in the adopted Hartlepool Local Plan 2006 and it is considered that the proposal would lead to the loss of a greenfield site forming part of the open space framework of the Wynyard development and the spread of urban development into that framework to the detriment of the visual amenities of the area contrary to Policies GEP1 and Rur2 of the adopted Local Plan.
2. It is considered that notwithstanding the proposed parking arrangements parents picking up and dropping off children would park on the Wynd a main distributor road serving the Wynyard development to the detriment of highway safety and the free flow of traffic contrary to policy GEP1 of the adopted Hartlepool Local Plan 2006.

Number: H/2006/0551

Applicant: Mr R Longmoor, 6 SOUTH CRESCENT, HARTLEPOOL

Agent: Mr R Longmoor, 6 SOUTH CRESCENT, HARTLEPOOL

Date received: 18/07/2006

Development: Creation of vehicular access, erection of railings and gates to front and provision of car hardstanding.

Location: 6 SOUTH CRESCENT, HARTLEPOOL.

Representations: Mr R Longmoor (applicant) was present at the meeting but did not address the Committee. The Committee also considered written representations in relation to this matter.

Decision: **Subject to no additional objections before the appointed date, Planning Permission Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.

- To clarify the period for which the permission is valid.
2. Details of all hardstandings/paving and the coping stone to which the gates/railings are attached shall be submitted to and approved in writing by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of the character and appearance of the listed building and the Headland Conservation Area.
 3. The railings and gates shall be cast iron and shall be painted black.
In the interests of the character and appearance of the listed building and the Headland Conservation Area

Number: H/2006/0552

Applicant: Mr R Longmoor, 6 SOUTH CRESCENT, HARTLEPOOL.

Agent: Mr R Longmoor, 6 SOUTH CRESCENT, HARTLEPOOL.

Date received: 18/07/2006

Development: Listed Building Consent for partial demolition of front boundary wall and provision of railings and gates and car hardstanding.

Location: 6 SOUTH CRESCENT, HARTLEPOOL

Representations: Mr R Longmoor (applicant) was present at the meeting but did not address the Committee. The Committee also considered written representations in relation to this matter.

Decision: **Subject to no additional objections before the appointed date, Listed Building Consent Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all hardstandings/paving and the coping stone to which the gates/railings are attached shall be submitted to and approved in writing by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of the character and appearance of the listed building and the Headland Conservation Area.
3. The railings and gates shall be cast iron and shall be painted black.
In the interests of the character and appearance of the listed building and the Headland Conservation Area.

Number: H/2006/0530

Applicant: Castlebeck Care (Teesdale), Valley Street North, Darlington.

Agent: Anthony Keith Associates, 19 Lansdowne Terrace, Gosforth, Newcastle Upon Tyne.

Date received: 10/07/2006

Development: Use as a residential care home (Class C2).

Location: 57 HUTTON AVENUE, HARTLEPOOL.

Representations: Mr T Wilson (applicant's representative) was present but did not address the Committee. The Committee also considered written representations in relation to this matter.

Decision: **Planning Permission Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Prior to the commencement of the development hereby approved, the building shall be provided with noise insulation measures, details of which shall be submitted for the consideration and approval of the Local Planning Authority. The scheme shall ensure adequate protection is afforded against the transmission of noise between 57 Hutton Avenue and 55 Hutton Avenue. The noise insulation scheme, as approved, shall be implemented in full and retained thereafter during the lifetime of the development.
In the interests of the amenities of the occupants of neighbouring properties.
3. Notwithstanding the submitted details a revised scheme for car parking shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented before the use hereby approved commences. Thereafter the approved parking arrangements shall be retained throughout the lifetime of this development.
In the interests of the amenities of the occupants of neighbouring properties.

Number: H/2006/0519

Applicant: T-Mobile (UK) Limited, Hatfield Business Park, Hatfield.

Agent: Turner & Partners, Templar House, Sandbeck Court, Sandbeck Way, Wetherby.

Date received: 05/07/2006

Development: Erection of a 20 metre monopole with 3 antennae, 2x 60mm dishes, equipment cabinets and fencing.

Location: HARTLEPOOL OLD BOYS RFC, MAYFIELD PARK, EASINGTON ROAD, HARTLEPOOL.

Representations: Mr R. Winn (applicant's representative) was present at the meeting and addressed the Committee. The Committee also considered written representations in relation to this matter.

Decision: **Planning Permission Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of fencing and other means of boundary enclosure including details of the proposed colour shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.

Number: H/2006/0446

Applicant: Mr R. B. Kinnersley, 82 Clifton Avenue, Hartlepool

Agent: Mr R. B. Kinnersley, 82 Clifton Avenue, Hartlepool

Date received: 19/06/2006

Development: Alterations and change of use of vacant first and second floors to form 2 self-contained flats.

Location: 39 - 41 MURRAY STREET, HARTLEPOOL.

Representations: The Committee considered written representations in relation to this matter.

Decision: **Planning Permission Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Before the use of the flats commences the flats shall be soundproofed in accordance with a scheme, which shall be first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved scheme shall be retained during the lifetime of the development.

In the interests of the amenities of the occupants of the flats.

Number: H/2006/0508

Applicant: Mr Mincher, 14 AMBERWOOD CLOSE, HARTLEPOOL.

Agent: Mr Mincher, 14 AMBERWOOD CLOSE, HARTLEPOOL.

Date received: 30/06/2006

Development: Erection of a two bedroom house.

Location: 14 AMBERWOOD CLOSE, HARTLEPOOL.

Representations: The Committee considered written representations in relation to this matter.

Decision: **Planning Permission Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The external materials used for this development shall match those of the donor property (14 Amberwood Close).
In the interests of visual amenity.
3. Before the development is brought into use the approved car parking scheme shall be provided in accordance with the approved details. Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.
In the interests of highway safety.
4. The existing garage and paved driveway serving no. 14 Amberwood Close, and located to the rear, shall be retained for the use of that property.
In the interests of the amenities of the occupants of neighbouring properties and highway safety.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no garage(s) other than those expressly authorised by this permission shall be erected without the prior written consent of the Local Planning Authority.

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

7. Notwithstanding the provisions of the Town & 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 dwellinghouse forward of the front wall, without the prior written consent of the Local Planning Authority.

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

Number: H/2006/0531

Applicant: Mr Ellwood

Agent: J W Dickinson Associates, 2 Surtees Street, HARTLEPOOL.

Date received: 10/07/2006

Development: Erection of a one bedroom bungalow.

Location: PARK HOUSE, WEST ROW, GREATHAM, HARTLEPOOL.

Representations: The Committee considered written representations in relation to this matter.

Decision: **Planning Permission Approved.**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) JWD102_002A & JWD102_103 received at the Local Planning Authority on 23rd August 2006, unless otherwise agreed in writing by the Local Planning Authority
For the avoidance of doubt
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no garage(s) other than those expressly authorised by this permission shall be erected without the prior written consent of the Local Planning Authority.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
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), the dwelling(s) hereby approved shall

not be extended in any way without the prior written consent of the Local Planning Authority.

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

5. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences including those for the driveway, samples of the desired materials being provided for this purpose.

In the interests of visual amenity.

6. Prior to the commencement of development details of all windows and doors including materials, surface treatments/colours and specifications including 1:10 scale drawings and sections shall be submitted to and approved in writing by the Local Planning Authority. The windows and doors shall thereafter be installed in accordance with the approved details.

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

7. 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), the garage shall be retained as a garage for vehicular parking and shall not be converted to a habitable room in whole or in part without the prior written consent of the Local Planning Authority.

In order to ensure that adequate parking is retained on site.

8. Prior to commencement of development the public sewer which passes/crosses the site shall be located and protected in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Any scheme of protection shall be retained until the development is completed unless otherwise agreed in writing with the Local Planning Authority.

In order to ensure the public sewer is not damaged during the construction process.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no additional windows(s) or doors shall be inserted in the elevations of the dwellinghouse facing Park House without the prior written consent of the Local Planning Authority.

To prevent overlooking

10. The developer shall give two weeks written notice of a commencement of works to any archaeologist nominated by the Local Planning Authority prior to development commencing and shall thereafter afford access at all reasonable times to the archaeologist and shall allow him/her to observe the excavation and record items of interest.

The site is of archaeological interest

11. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.

- In the interests of visual amenity.
12. 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.
13. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
- In the interests of visual amenity.

Number: H/2006/0546

Applicant: Ms J Frain, Blackhall.

Agent: a.a.d, Church Yard Studio, St Mary's Cottage, Monk Hesleden.

Date received: 13/07/2006

Development: Erection of a detached dwelling.

Location: LAND REAR OF TALL TREES, EGERTON TERRACE, HARTLEPOOL.

Representations: The Committee considered written representations in relation to this matter.

Decision: **Minded to approve but a final decision was delegated to the Development Control Manager in consultation with the Chair and Vice Chair of the Planning Committee.**

Number: H/2006/0494

Applicant: Mr A Brahimi, 7 Brunel Close, Wingfield Park, HARTLEPOOL

Agent: Mr A Brahimi, 7 Brunel Close, Wingfield Park, HARTLEPOOL.

Date received: 28/06/2006

Development: Variation of opening hours to allow opening Monday-Thursday 11.00-00.00 Friday and Saturday 11.00-01.30 and Sunday 11.00-23.30.

Location: 28 WHITBY STREET, HARTLEPOOL.

Representations: The Committee considered written representations in relation to this matter.

Decision: **Planning Permission Approved.**

The Chairman used his casting vote in favour of the above decision.

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The premises hereby approved shall be open to the public between the hours of 11:00 until midnight Monday to Thursday, 11:00 until 1:30 Friday and Saturday and 11:00 until 23:30 Sunday.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

50. Appeal by Mrs J A Boyle, Site at 65 Seaton Lane, Hartlepool (*Assistant Director (Planning and Economic Development)*)

51. Appeal by Mr P Ross, Site at 5 Windsor Street, Hartlepool (*Assistant Director (Planning and Economic Development)*)

A planning appeal had been lodged against the refusal of outline planning permission for the erection of a detached dormer bungalow at 65 Seaton Lane (application number H/2005/5644). Notification had now been received from the Planning Inspectorate that the appeal had been allowed. The Inspector concluded that the proposal would not have a detrimental effect on the existing occupants of adjacent dwellings. A copy of the decision letter was submitted as an appendix.

A planning appeal had been lodged against the refusal of planning permission for conversion of a house to three flats at 5 Windsor Street (application number H/2005/5775). Notification had now been received from the Planning Inspectorate that the appeal had been allowed. A copy of the decision letter was submitted as an appendix.

The Development Control Manager indicated that he had some reservations in relation to the two decisions and had considered requesting Members approval to submitting objections to the decisions, though had subsequently considered that doing so may not be in the Council's best interests. Members expressed their concern at the over-turning yet again of decisions of the Committee by the Inspectorate. Members' requested that their concern be raised with the local Member for Parliament.

Decision

1. That the appeal decisions be noted.
2. That the Head of Development Control be authorised to write to the Member of Parliament for Hartlepool, outlining the Committee's concerns in relation to recent decisions from the Planning Inspectorate.

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

Members were advised that during the four week period prior to the meeting forty seven (47) planning applications had been checked. Twenty five (25) required site visits resulting in various planning conditions being discharged by letter.

Members' attention was drawn to fourteen (14) current ongoing issues detailed in the report.

Decision

That the report be noted.

BILL ISELEY

CHAIRMAN

No: 1
Number: H/2006/0334
Applicant: Baker Hughes Tekchem Works Tofts Farm Industrial Estate West Hartlepool TS25 2BQ
Agent: Tekchem Works Tofts Farm Industrial Estate West Hartlepool TS25 2BQ
Date valid: 02/05/2006
Development: Application for hazardous substance consent to increase the quantity of 5 hazardous substances stored including propylene oxide and acrolein (Amended scheme to increase the proposed amount of acrolein from 30 to 40 tonnes)
Location: BAKER PETROLITE TOFTS FARM INDUSTRIAL ESTATE WEST BRENDA ROAD HARTLEPOOL HARTLEPOOL

The Application and Site

1.1 The site to which this application relates is an existing chemical plant located upon the western end of the Tofts Farm West Industrial Estate. The site is bounded to the north and east by railway lines, which separate the site from the surrounding industrial developments at Tofts Farm East/West and Graythorp Industrial Estate. The nearest residential developments to the site are over 1000m (Greatham).

1.2 The application seeks Hazardous Substance Consent for the increased storage of Propylene Oxide, Acrolein, Environmentally Hazardous Chemicals, Flammable Chemicals and Highly Flammable Chemicals within the boundaries of the site.

1.3 The application has been amended since originally submitted to increase the amount of Acrolein stored upon the site from 30 tonnes to 40 tonnes (currently consent for 22 tonnes). The application has been re-advertised as such and therefore the remainder of this report relates solely to the amended application.

1.4 This application is a direct response to the proposed commercial expansion at the site including increased production of existing products and storage and distribution of product for trials off site (in the North Sea region).

Publicity

1.5 The application has been advertised by way of neighbour letters (7), site notice and press notice. To date, there has been 1 letter of objection

1.6 The concerns raised are:

- 1) Increased risk of serious fires and explosions.
- 2) Any accident would create a hazardous situation to the surrounding area and be a danger to people's health.

- 3) Detrimental to the wildlife and the environment.
- 4) Increased road traffic carrying waste and toxic chemicals hazardous to road users.

1.7 The period for publicity has expired.

Consultations

10.8 The following consultation replies have been received:

Northumbrian Water – No objection

English Nature – No objection

Environment Agency – No objection

Head of Public Protection and Housing – No objection providing the HSE and Environment Agency are satisfied with the proposal

Greatham Parish Council – Object to the extreme increase in the storage of flammable substances and the increase in the storage of flammables alongside toxic substances.

Health and Safety Executive – No objection

Stockton Borough Council – comments awaited

Head of Traffic and Transportation – No objection

Planning Policy

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

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

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

GEP4: states that development proposals will not be approved which would have a significant detrimental effect on the environment, on amenities of local residents,

watercourses, wetlands, coastal waters, the aquifer or the water supply system or that would affect air quality or would constrain the development of neighbouring land.

Ind11: States that proposals for the introduction of hazardous substances will be permitted on sites identified in policy Ind9 for potentially polluting or hazardous substances subject to there being no significant increase in risk to people or significant adverse effect on designated nature conservation sites in the vicinity. In considering such proposals at other locations the Borough Council will also need to be satisfied that they will not inhibit the full opportunities for development of nearby sites.

Ind9: Reserves land in this area for developments which are potentially polluting or hazardous. These will be permitted where there is no significant detrimental effect on the environment or on designated nature conservation sites, on amenity or on the development of neighbouring land. In these respects special regard will be had to advice received from the Health and safety Executive, HM Inspector of Pollution, the Environment Agency and English Nature as appropriate.

PU2: States that industrial development on this site will be approved if surface water drainage is adequate. Sustainable drainage is encouraged.

Planning Considerations

1.10 The main considerations relate to the suitability of the proposal in the context of the policies and proposals held within the Hartlepool Local Plan (2006) and the potential impact of the development upon the health and safety of the occupants of nearby properties.

1.11 As the proposed increase in the storage of Hazardous Substances relates to an existing chemical installation located within an area designated for potentially polluting or hazardous developments the storage of hazardous substances is considered acceptable in principle.

1.12 In accordance with policy Ind9 (Potentially Polluting or Hazardous Developments) of the Hartlepool Local Plan, the Health and Safety Executive (including the Nuclear Installations Inspectorate), English Nature and the Environment Agency have been formally consulted on the proposal and have raised no objection.

1.13 The Council's Head of Traffic and Transportation has raised no objection to the proposal on highway safety grounds.

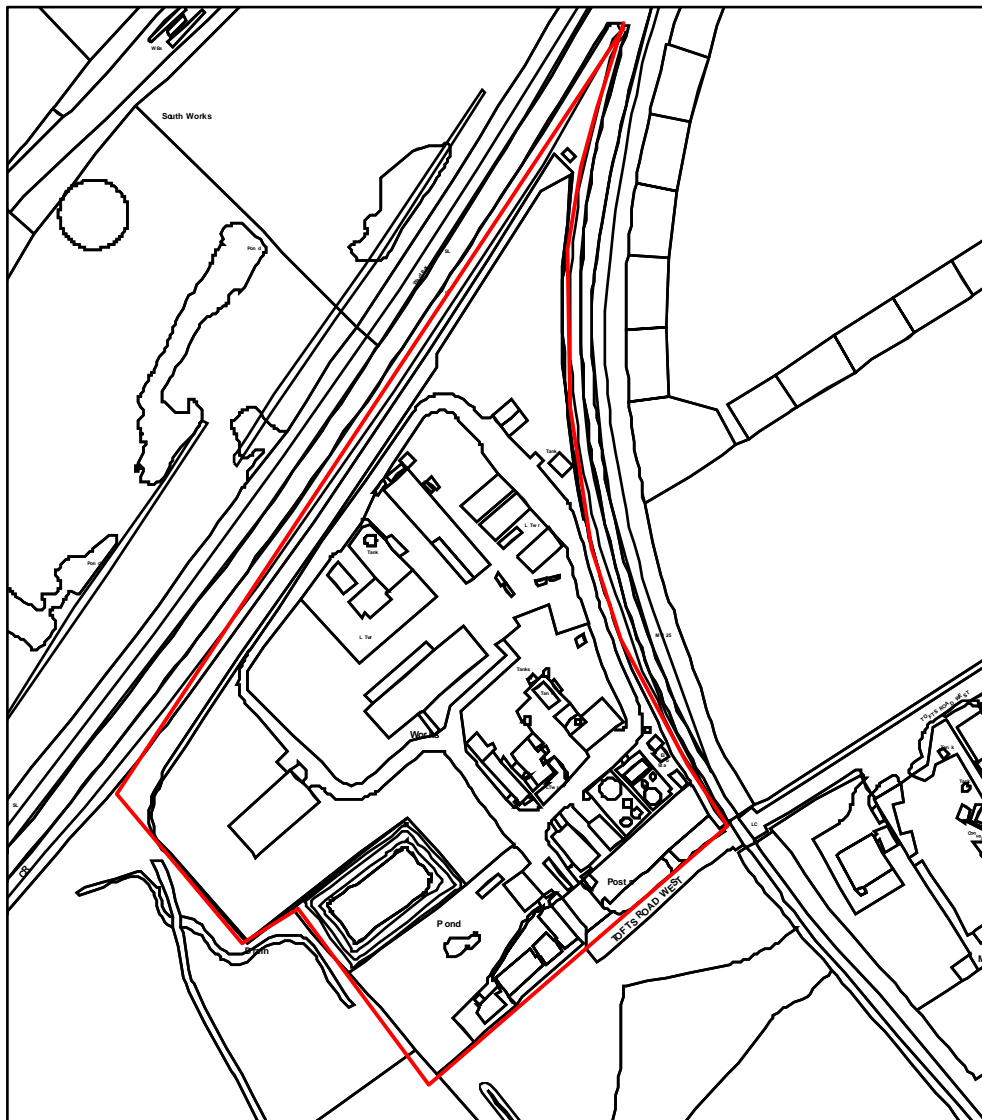
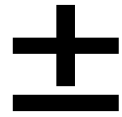
1.14 The application site is currently and will continue to be subject to the Control of Major Accident Hazards Regulations (COMAH).

1.15 While the objections of Greatham Parish Council are noted, given the policy framework and the views of all the statutory consultees it is considered that their objection could not be substantiated.

1.16 Further clarification is currently being sought from the Health and Safety Executive as to whether the increases will not have any wider significance than the present qualities in terms of off-site risk. It is anticipated this information will be received prior to the committee meeting and as such an update report will follow.

RECOMMENDATION – Update to follow

Baker Petrolite



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 14/9/06
	SCALE 1:2500	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2006/0334	REV

No: 2
Number: H/2006/0304
Applicant: Mr Ted Jackson 7 Amble close Hartlepool TS26 0EB
Agent: Jacksonplan Limited 7 Amble Close Hartlepool TS26 0EP
Date valid: 09/05/2006
Development: Erection of 17 executive apartments with access road and service facilities
Location: SHU-LIN ELWICK ROAD HARTLEPOOL

The Application and Site

2.1 Planning permission is sought for the erection of 17 executive apartments with access road and services facilities. The application site currently forms part of the extensive garden of Shu Lin a large two storey modern detached dwellinghouse erected some years ago. It lies within the Park Conservation Area and has vehicular access onto Elwick Road. To the east is the donor property of Shu Lin and beyond that Holly House a large modern dwellinghouse. To the north are three modern detached dwellinghouses (309 Elwick Road, The Roost and Well Close) which are enclosed by a high hedge which forms most of the northern boundary of the application site. A recent planning permission for a fourth house in the rear garden of Well Close, is currently being implemented. To the west of the site is a rough grassed paddock where planning permission for the erection of three dwellinghouses was recently refused. The boundary with the paddock is open save for a line of recently planted widely spaced young trees. To the west of the paddock is an area of mature woodland. To the north west are Meadowcroft and Meadowsides which together form a Grade II listed building. The boundary here is screened by trees and bushes augmented by recent planting. At the southern end of the site the land falls away down to a fence beyond. The fall is approximately 1.4m and the boundary is lined with mature trees and bushes beyond which is a public footpath, a stream and farmland rising up to Summerhill. A footpath climbs to Summerhill across farmland to the south.

2.2 The applicant's approach in bringing forward the application is outlined in his attached planning statement (Appendix 1). The applicant considers that the most suitable form of development is one in the form of two detached mansions (Mansion A/Mansion B) located within a Parkland setting. The proposed apartment blocks will be constructed to the west of Shu Lin. The apartment blocks will be substantial three storey T shaped buildings some 11 to 11.7 m high to the ridge. The main elevation of each T shaped block will be some 25m wide, the maximum depth of the blocks from the main elevation, including the rear projection or the body of the T, will be some 28.3m. The blocks are of an almost identical design incorporating front balcony's, a front porch and projecting three storey bays. The external finishes of the buildings are traditional. The apartments will be three bed roomed and will also incorporate a lift.

2.3 Mansion A will be located at the northern end of the application site approaching the adjacent housing (Well Close, The Roost and 309 Elwick Road). It will be oriented with its principal elevation facing south east into the site. This block will be dug down into the site. It differs from Mansion B in that the rear projection will be two storey. This block will accommodate eight apartments.

2.4 Mansion B will be located at the southern end of the application site, approaching the footpath and beck. The land falls away at this point and the rear projection of the building will be stepped down to account for this. It will be oriented with its principal elevation facing north east into the site. It will accommodate nine apartments.

2.5 Externally, an access road, three car port blocks, two bin store blocks, parking and landscaping will be provided. An acoustic wall will be provided along part of the northern side of the site and a new wall, fence and hedge will be provided variously on the boundary with Shu Lin. The applicant has indicated a parkland setting would be maintained around the development and that additional tree planting would be undertaken.

2.6 The site will share the existing access with Shu Lin from Elwick Road. The access will be modified. It will be shifted to the east and selectively widened these works will involve the removal of part of a conifer hedge and three trees which are protected by virtue of their location in the Conservation Area. To accommodate the access modifications part of the existing boundary wall will be demolished/rebuilt.

2.7 The application is supported by various reports. The arboricultural report is discussed below. A ground investigation and desk top report in relation to the risk of contamination was also submitted which concluded that there is no apparent risk of fill or disturbed ground on the site and that there is no significant risk of contamination from the previous use of the site.

Publicity

2.8 The application was originally advertised by neighbour notification (30), site notice and by press advert. Twenty four representations were received. Seven letters of objection, three letters of no objection, thirteen letters of support and one letter making observations were received.

2.9 The objectors raise the following issues:

- 1) Design, size, density, scale and nature incongruous, intrusive and out of character with Conservation Area.
- 2) Detrimental impact on character of Conservation Area
- 3) Visually intrusive from countryside/footpaths
- 5) It will dominate the rural nature of the Park Conservation Area.
- 6) Unattractive
- 7) Overdevelopment
- 8) Loss of trees
- 9) Loss of sunlight/privacy
- 10) Noise and traffic nuisance.

- 11) Application and appeal turned down on Briarfields site adjacent.
- 12) Increased traffic congestion/hazards on an already congested and hazardous road.
- 13) Development is not needed given recent approvals at Tunstall Court.

2.10 Those writing in support of the application (13) have raise the following issues:

- 1) The new application more carefully considers the character of the area and the impact on the privacy of existing dwellings.
- 2) The proposal for two mansion blocks is In keeping with the style of surrounding buildings.
- 3) Excellent development will allow existing residents to downsize freeing up larger properties in the area.
- 4) Will increase choice of properties in area.
- 5) Shortage of this type of high quality accommodation.
- 6) Will be appropriate and beneficial use of garden area.
- 7) Better and more economical than building more large detached properties as proposed at Briarfields.
- 8) In accordance with government guidance.
- 9) Will be an asset to the town.
- 10) Development allowed to north overlooking Shu Lin. Hedge will be maintained. Building line shouldn't be determined by English Heritage. Footpath to south is at lower level. Views south are screened by trees.

2.11 One person makes the following observations:

- 1) Developments in the area piecemeal, no overall planning (for services,access,TPO's) needs to be planned for along with other development proposed in the area.

2.12 Following discussions the proposals have been amended. The amended drawings were advertised by neighbour notification (40). Seven letters of objection, eight letters of no objection and two letters of support were received.

2.13 The objectors raise similar issues to those identified in the relevant section above and the following additional points:

- 1) Site will be visible from listed buildings (Meadowcroft/Meadowside).
- 2) The modern development to the north far from justifying the development is a powerful reason to refuse it for reasons of precedent.
- 3) Disagree in principle with development in gardens which has a detrimental affect, and ultimately will result in a lack of quality housing in reasonable surroundings.

2.14 Those writing in support of the application(2) raise similar issues to those identified in the relevant section above. One makes the additional point that the new proposal offers even better opportunities for the enjoyment and privacy of the surrounding area without adversely affecting the neighbouring houses.

The time period for representations has expired.

Copy Letters A

2.15 As indicated the applicant has produced a statement in support of the application and this is attached as appendix 1.

Recent Planning History

2.16 In December 2005 an application for the erection of 18 apartments on the site was submitted. This scheme in the form of a single three storey block was withdrawn in March 2006 following discussions when fundamental concerns were raised in relation to the scheme. (H/2005/6027)

Consultations

2.17 The following consultation replies have been received:

English Heritage : The amended proposals remain largely unchanged from the original scheme. We continue to be of the view that the proposed development will harm the character and appearance of the conservation area by virtue of its layout, architectural form and detailing, and by a miscellany of associated infrastructure including bin stores, car ports, brick boundary walls, acoustic barriers, hardstandings and traffic signs. We also consider that the proposed development will intrude upon views from the neighbouring listed villa known as Meadowcroft, particularly during the winter months. We therefore recommend that the application be refused.

1. The Park conservation area is characterised by large residential villas set within generous grounds and centred on the Ward Jackson Park. The southern edge of the conservation area in the vicinity of the application site is rural in nature. This is in contrast to the built-up edges of the conservation area elsewhere and, in our view, is an important element of the character of the conservation area as a whole. As stated in our earlier letter, we consider that the application site and adjoining open land forms an important spatial buffer between the open countryside to the south and the edge of the more densely populated settlement to the north. This buffer has a long history as an area of open land and retains its semi-rural/parkland character despite the recent development of Shu Lin.

2. The amended proposals remain largely unchanged from the original scheme. This is disappointing given the points we discussed during the site meeting with the applicant's agent in July 2006.

3. We continue to be of the view that the proposed development will have an adverse effect upon the character and appearance of the conservation area. We consider that the tight grouping of two substantial apartment blocks in an established residential curtilage does not respect the predominant open grain of the built form in this part of the conservation area. The architectural form and detailing of the proposed residential blocks continue to lack quality and coherence, and fail to pay sufficient regard to the nature of the site and its surroundings. In our view, the

miscellany of bin stores, car ports, brick boundary walls, acoustic barriers, hardstandings and traffic signs is entirely at odds with the informal semi-rural character of this part of the conservation area. We are also mindful that part of the proposed development will intrude upon views from the neighbouring grade II listed villa known as Meadowcroft, whose position and orientation was no doubt established to take advantage of the open south-facing aspect.

4. As a footnote to the above, we note that the lack of a comprehensive character appraisal for the Park conservation area has probably given rise in the past to some unfortunate development. We would urge your Council to prepare an appraisal and related management proposals as soon as possible in order to provide a sound and informed basis for future development control decisions.

We consider that the proposed development will not preserve the character and appearance of the conservation area, and will have an adverse effect upon the setting of the adjoining grade II listed villa. In accordance with our earlier advice, we recommend that the application be refused.

Tees Archaeology : No objections.

Environment Agency : No objections require that any surface water discharges from the site are regulated to reduce any risk of flooding this can be conditioned. They also request an appropriate condition to control the discharge of foul or contaminated drainage to surface waters.

Head of Public Protection & Housing : No objections.

Northumbrian Water : No objections. Surface water must be prevented from entering public surface water or combined sewer.

Engineers: Request details of proposed soak-away prior to any approval or confirmation that the Environment Agency is satisfied with a discharge into the adjacent watercourse. In light of the report on the risk of contamination which concluded that there is no significant risk of contamination no conditions are required in relation to this issue.

Traffic & Transportation : The footpath should be brought forward to the edge of the road and the parking spaces no 3 to 9 should be relocated to the back of the footpath so vehicles can manoeuvre in and out of the bays. This can be done as a planning condition.

The footpaths and roads to be constructed to an adoptable standard either through a section 38 agreement or Advance Payment Code agreement with the Local Authority. Depending on which agreement is used, it should be in place before any construction works commence.

Cleveland Police : No comments received.

Planning Policy

2.18 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.

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

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

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

GEP9: States that the Borough Council will seek contributions from developers for the provision of additional works deemed to be required as a result of the development. The policy lists examples of works for which contributions will be sought.

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.

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

range and choice of housing provided and the balance of housing supply and demand. Developer contributions towards demolitions and improvements may be sought.

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

Planning Considerations

2.19 The main planning considerations are policy, the impact of the development on the character and appearance of the Conservation Area/setting of the nearby listed building, trees, impact on the amenity of nearby residential properties, highways and drainage.

POLICY

2.20 The site is not an allocated housing site in the emerging Hartlepool Local Plan and so the proposal is defined as a windfall development.

2.21 The site is within the defined limits to development and is technically defined as previously developed land.

2.22 Ongoing monitoring of the rates of housing development indicates that the current supply of housing is in excess of strategic allocations for the Borough. However the emerging RSS raises the possibility of support for redevelopment on brownfield sites regardless of housing numbers. It is therefore considered that it would be difficult to sustain an objection to this scheme in housing numbers terms.

2.23 There are concerns about more apartments in the town. The supporting text to policy Hsg5 of the Local Plan states. ... in view of the high number of high density apartments which are currently being provided in the Marina area and are proposed for Victoria Harbour the Borough Council is unlikely to consider proposals for such types of dwelling as of high priority unless they form a minor part of a larger mixed housing development or it can be demonstrated that there are specific locational or other factors by which the need can be demonstrated.... The applicant and many of those writing in support of the application suggest it could meet a special need and propose a scenario whereby people in the area would downsize into these apartments so releasing their properties to the market. This would have the added benefit of releasing larger properties which are currently under represented in the town. The proposal is for 3 bedroom apartments. There is no guarantee that this phenomenon will occur. There is already provision for apartments in the area (Tunstall Court) and in the town as a whole to potentially meet this downsizing "need". However at this point in time it is considered that it would be difficult to object to an apartments development per se on housing policy grounds. The

proposed Housing Market Assessment anticipated by Spring 2007 should give greater quantitative clarity to this issue.

2.24 The applicant has agreed that should planning permission be granted he would make a contribution of £3000.00 per dwelling towards housing clearance/regeneration in other parts of the Borough and off site play facilities in line with current Council practice.

IMPACT ON THE CHARACTER & APPEARANCE OF THE CONSERVATION AREA/SETTING OF THE NEARBY LISTED BUILDING

2.25 The site is located within the Park Conservation Area where policies seek to preserve and enhance its special character and historic interest. English Heritage and the Conservation Officer have raised objections to the proposal.

2.26 This part of the conservation area presents a feeling of spacious low density development with dwellings concealed by mature trees and shrubs. Whilst infill development has occurred to the north of the application site this has tended to be single albeit large dwellings set within relatively generous plots, largely screened from the application site by high hedging.

2.27 The application site forms part of the substantial garden area of Shu Lin and is largely laid to grass and taken together with the adjacent paddock give this part of the Conservation Area an open character in contrast to the more built up areas to the north. This openness is reinforced by the lack of any buildings on the site, the absence of any formal enclosures along the boundary with the paddock to the west and the fact that the site is elevated in relation to the boundary fence to the south with views out from the site towards the adjacent countryside. It is considered this area forms an important spatial buffer between the open countryside to the south and the more built up area to the north and is an important contributory element to the Conservation Areas special character. The particular character of this part of the conservation area was noted by the inspector when dismissing the appeal against the refusal of infill housing on the adjoining Meadowcroft site when he noted "In contrast to elsewhere around the edge of the Conservation Area it is in the vicinity of the appeal site that the Conservation Area has a rural nature. This, in my view, is an important element of the character of the Conservation Area". (The relevant appeal decision is attached as Appendix 2). The proposal, the substantial apartment blocks with separate carports, bin stores and significant hardstandings would change the character of this part of the Conservation Area introducing an intrusive, and dominant built form. It is acknowledged that the site benefits from a good degree of screening with wooded areas to the west and mature trees and bushes to the east and south however the development would be visible from the southern edge of the Conservation Area from both the public footpaths to the south as well as in more distant views from Catcote Road particularly in winter months. The elevated siting of mansion B relative to the public footpath would tend to make this element appear more prominent from this viewpoint.

2.28 The prevailing built form of residential properties in the Conservation Area consists of individually designed dwellings which by their use of materials and design

details provide a variety which contributes greatly to the special character of the Conservation Area. English Heritage have particular concerns that the architectural form and detailing of the blocks lacks quality and coherence and as a whole the scheme fails to pay sufficient regard to the character of the Conservation Area, the nature of the site and its surroundings. Their comments are reproduced in full, in the consultation replies above.

2.29 The applicant has challenged the views of English Heritage and the Conservation Officer refuting the view that the site is rural/open/undeveloped, questioning the visibility of the site and pointing to development elsewhere in the Conservation area (particularly the apartment development at Four Winds and the infill development to the north of the site) and to the one time proposed allocation of the Briarfields site for housing. The issues of the openness and visibility are discussed above. In relation to the other sites in the Conservation Area it is the case that both the infill and new development has been approved extensively and in principle this can be acceptable, however each site must be addressed on its own merits and in its own context. The houses immediately to the north for example are large individually designed properties which are set within a more urbanised setting in the Conservation Area. The Briarfields site no longer forms part of the housing allocations proposed in the Local Plan. However when that scheme was originally promoted the proposal was for large individually designed houses on large plots (10 per hectare). No layout was considered and the boundary detailing to the countryside edge were not identified at that time.

2.30 It is concluded that the proposed development by reason of its layout, architectural form and detailing including the miscellany of associated infrastructure would have a detrimental impact on the character and appearance of this specific part of the Park Conservation Area.

2.31 To the north west of the site is a grade II listed building (Meadowcroft/Meadowside). The property was constructed to take advantage of views of the countryside to the rear. English Heritage consider the proposed development would intrude on these views particularly in winter and therefore detract from the setting of the listed building. This was part of the argument which resulted in the failure of the appeal referred to earlier at Meadowcroft. While substantial additional planting has been provided at Meadowcroft since then views from Meadowcroft and Meadowside will embrace this site to some extent.

TREES

2.32 The development will result in the removal of three trees at the entrance to the site to accommodate amendments to the access. These are a Beech, and two Ash trees. The application has been supported by an Arboricultural Report which has been reviewed by the Arboriculturalist.

2.33 The Beech tree is diseased and the Report recommends its removal on safety grounds. One of the Ash trees has been suppressed by Elms which have been removed in the past and its condition is described as poor, the report recommends its removal on safety grounds. The consultant is concerned that the other Ash would

be vulnerable to winds with the removal of the other trees and again recommends the tree is removed. The report concludes that the two Ash trees if retained would require extensive surgery to make them safe especially to their uppermost branches. Replacement planting is proposed.

2.34 Other trees will be affected by alterations to the access within the site and special construction techniques are proposed to limit any disturbance. The removal of a high Leylandii Hedge would also be required but it is considered that this is of limited amenity value.

2.35 The Arboriculturalist considers that the Report provides a comprehensive assessment of the trees on site and accepts that the reasons given for the removal of the trees are valid especially in relation to the Beech. It is clear that the removal of the three trees will result in the removal of mature trees that do have a presence in the Conservation Area, however there are other mature trees in close proximity. The Beech will need to be removed in any case and the two Ash trees if retained would require extensive surgery to make them safe especially to their uppermost branches.

2.36 The applicant has advised that he has explored an alternative scheme should the removal of the Ash trees be unacceptable. The Arboriculturalist has confirmed that he would prefer to see the design accepted and appropriate replanting take place. It is considered in the long term this would be the best option. Elsewhere on the site appropriate conditions would secure the retention and health of retained trees.

THE IMPACT OF THE PROPOSAL ON THE AMENITY OF THE OCCUPIERS OF NEARBY RESIDENTIAL PROPERTIES

2.37 Concerns have been raised in relation to the developments relationship with adjoining occupiers to the north in terms of noise from traffic, loss of light and of privacy.

2.38 A number of concerns have been raised in relation to disturbance which might be caused to the occupiers of nearby residential properties from traffic movements associated with the occupation of the site. The properties most directly affected would be The Roost, Holly House, Well Close and the new house being erected in the rear garden of Well Close. At their closest points Holly House and Well Close would be gable ended on to the access which would be some 19m and some 12m distant respectively at its closest point. The closest property would be the new house being erected in the rear garden of Well Close. The access will narrow in part and the applicant maintains that this will effectively reduce traffic speeds and any potential disturbance. The applicant has also agreed to erect an acoustic wall on the northern boundary of the site. It is also the case that the access drive is currently relatively well screened by intervening fencing, trees, bushes and this could be augmented by condition. The rear of the Roost faces the site but would be some 29m from the closest of the parking areas and further from the access. The closest part of Shu Lin would be some 13m from the access and again a proposed intervening wall would afford some protection. The issue has been discussed with the Head of Public Protection and he has not objected to the proposal. Given the

relationships, the level of separation, the proposed provision of a walls, the screening afforded by existing boundary treatments which could be augmented by condition it is not considered that the proposal would unduly affect the amenity of the neighbouring properties in terms of any disturbance due to traffic movements associated with the site.

2.39 Objections have been received from the occupiers of adjacent properties to the north in relation to loss of light and privacy.

2.40 Given the separation distances and the orientation of the proposed block it is not considered that block B would unduly affect the amenity of adjacent residential properties including the donor property in terms of loss of light, privacy or in terms of any overbearing effect.

2.41 Block A at the northern end of the site is located closer to the residential properties to the north. Given the separation distances involved it is not considered that Block A would unduly affect the existing amenity of the donor property, Well Close, Holly House or the new house being erected in the rear garden of Well Close in terms of loss of light, privacy, outlook or in terms of any overbearing effect. The properties located immediately to the north The Roost and 309 Elwick Road are closer. The details submitted by the applicant show that block A will be set down on the site at a lower level than the properties to the north. For example ground level at the Roost is shown as 100.44m whilst the finished floor level of the block is shown as 98.63m. Following discussion the applicant has also agreed to lower the height of the rear projection which faces northward toward these properties to two storeys. The amended plans show that the closest part of block A, the main three storey element, will be some 23m from the closest part of the nearest dwellinghouse (309 Elwick Road) and some 11m from its garden boundary. The boundary here is formed by a substantial hedge some 12ft high, whilst under the high hedges legislation the neighbour could at any time apply to reduce the height of the hedge, at the moment it presents a substantial screen. A number of first and second floor windows will face towards the neighbouring properties. In the closest part of the main three storey block these will be secondary lounge and bath room windows which could be conditioned to be obscure glazed although separation distances are achieved. Whilst additional views towards 309 Elwick Road will be possible from rear bedroom windows these views would be more distant/oblique and from bedrooms not normally occupied during the day. In relation to the two storey rear projection views towards the neighbours will be from first floor bedroom windows and some 12m off the boundary and some 26m from the closest part of the nearest house (309) well in excess of this authorities guidelines. The outlook and current levels of privacy/seclusion enjoyed by the closest residential properties 309 Elwick Road and The Roost will undoubtedly change given the erection of such a large development to the rear and the introduction of facing windows. However given the orientation of the proposed apartment block, the separation distances proposed, the screening afforded by the existing substantial hedge, the fact that the block will be set down on the site and the opportunity to impose conditions in relation to window glazing it is not considered that any impact would be so detrimental in terms of loss of light, privacy or in terms of any overbearing effect as to warrant refusal of the application.

HIGHWAY CONSIDERATIONS

2.42 Objectors have raised highway safety concerns. In particular that the proposal will exacerbate congestion and create additional hazards on Elwick Road. Highways have not objected to the proposed access arrangements and raised concerns only in relation to the detailed arrangements within the site elements which could be conditioned. It is considered therefore that in highway terms the proposed access arrangements are acceptable.

DRAINAGE

2.43 Foul drainage will be to the public sewers with surface water to soakaways. The Engineers have raised concerns that ground conditions may preclude the use of soakaways. They have therefore requested details of proposed soak-away prior to any approval or confirmation that Environment Agency is satisfied with a discharge into the adjacent watercourse. The Agency have previously indicated that though a soakaway would be preferable a regulated discharge of surface water to the adjacent water course would be a possibility should ground conditions preclude soakaways (H/2005/6027 refers). It is considered therefore that the details of the proposals for the disposal of surface water could be conditioned in this case.

2.44 The proposed development by reason of its layout, architectural form and detailing including the miscellany of associated infrastructure would have a detrimental impact on the character and appearance this part of the Park Conservation Area contrary to policy HE1 of the adopted Local Plan.

2.45 The proposed development would intrude on views from the listed building located to the north west and therefore detract from the setting of the listed building contrary to policy HE10 of the adopted local plan.

RECOMMENDATION - REFUSE

1. The proposed development by reason of its layout, architectural form and detailing including the miscellany of associated infrastructure would have a detrimental impact on the character and appearance of the Park Conservation Area contrary to policy HE1 of the adopted Hartlepool Local Plan 2006.
2. The proposed development would intrude on views from the listed building located to the north west and therefore detract from the setting of the listed building contrary to policy HE10 of the adopted Hartlepool Local Plan 2006.

AMENDED

SHU LIN, ELWICK ROAD, HARTLEPOOL

A PROPOSAL TO DEVELOP 17 NO EXECUTIVE APARTMENTS, NEW ACCESS ROAD AND CAR PARKING ON THE 0.56Ha SIDE GARDEN OF 'SHU LIN', ELWICK ROAD, HARTLEPOOL, TS26 0BE

PLANNING STATEMENT

Planning Policy

Planning Policy relating to the application site is to be found in the Hartlepool Replacement Local Plan 2006.

The Local Plan identifies the residential curtilage of Shu Lin within the Park Conservation area.

The relevant Local Plan policies relating to development within its curtilage are:

- HE1-2 Protection and Enhancement of Conservation Area & Environmental improvements in Conservation Area
- HE3 Developments in the vicinity of Conservation Areas
- HE10 Works within the vicinity of Conservation Areas *(Listed B)*
- GEP1 General environmental principles
- GEP2 Access for all
- GEP13 Works to protect trees
- Hsg5 Management of housing land supply
- Hsg9 New residential layout – Design etc
- Tra10 Road junction improvements
- Tra14 Access to development sites
- Tra16 Parking standards

The southern boundary of the property adjoins the northern boundary of the Summerhill/Burn Valley Green Wedge, an area within which policy GN2b is relevant.

Government guidance in respect of the Conservation Area as a whole is to be found in **PPG15 – Planning and the Historic Environment**, where the principles of Government policy for Planning and Conservation is set out in Part 1. The role of the planning system is set out in paras 1.2 and 1.3, where it is confirmed that the objective of planning process should be to reconcile the need for economic growth with the need to protect the natural and historical environment.

Para 1.3 is considered to be of particular importance for development within such an area and is as follows:

The Government has committed itself to the concept of sustainable development – of not sacrificing what future generations will value for the sake of short-term and often illusory gains. This approach is set out in Sustainable Development: The UK Strategy. It is also a key element of the development plan system, as set out in PPG 12. This commitment has particular relevance to the protection of the historic environment, which by its nature is irreplaceable. Yet the historic environment of England is all-pervasive, and it cannot in practice be preserved unchanged. We must ensure that the means are available to identify what is

special in the historic environment; to define through the development plan system its capacity for change; and when proposals for new development come forward, to assess their impact on the historic environment and give full weight, alongside other considerations.

The definitions of 'greenfield' and 'previously developed land' (brownfield land) are to be found in **Annex C of PPG3 – Housing.**

The definition of previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings).

The curtilage of Shu Lin, (including the application site), being a residential curtilage, is therefore previously developed land.

The land is therefore a windfall site, available for development in preference to existing 'greenfield' sites identified in the Plan, and subject to all other relevant matters.

Planning History

The only relevant planning history relating to the application site is the approval of 'Shu Lin' itself in 1985. At that time a Section 52 Agreement was signed due to the then drainage problems existing in the area at that time. Subsequent correspondence between Kaiser Design Ltd. and the Chief Planner in 1994 confirmed that the then requirement for the legal agreement no longer applied. This has been recently confirmed by the Authority.

Sustainability

The key issues in this regard are:

- The site's location within the urban area,
- The approximate 3 acre site currently accommodates one dwelling,
- The site's location on a primary road network,
- The site's location on a bus route,
- The site's location close to primary and secondary schools,
- The site's relationship to public open space.

Proposals for further development within the curtilage of Shu Lin are therefore entirely in compliance with current Government Policy in respect of 'sustainability issues'

Opportunities

The application site measures 0.56Ha and is located within the prime residential area of Hartlepool, an area where the Local Planning Authority has found it difficult to satisfy Local Plan requirements for high quality executive accommodation over the plan period. The development of the site for high quality executive apartments would therefore assist in satisfying the current under-provision of such accommodation in this area. The development of the site would also offer the much needed accommodation into which existing residents of the area who currently occupy large underused executive houses can relocate into without having

to reduce their quality of accommodation or environment, and thereby make available for sale, their existing executive dwellings.

Impact on the Conservation Area

The impact of the proposal on the Conservation Area must, and has been of prime consideration throughout the design process, which has also included discussions with all relevant officers, including those from English Heritage.

The vehicle access:

One of the principal issues to be address was clearly the impact of the proposed access on existing landscape at the entrance and within the site itself. With specific regard to the proposed site entrance, this is addressed under vehicle access below.

The existing internal landscape:

With regard to the existing trees within the site, it is confirmed that all existing tree cover would remain. Landscape proposals for the development would therefore offer an immediate improvement to the overall content and variety of tree cover within the curtilage of Shu Lin. The developers would welcome officer involvement in the content of the final landscaping proposals for the development as a whole, which would hopefully complement and improve the peripheral tree line features currently existing in this section of the Conservation Area.

Impact of the proposed development:

At present the curtilage of Shu Lin is effectively two elements:

- The existing dwelling and its immediate garden area, which is predominantly to lawn, trees and shrub planting, maintained to a very high standard.
- The second element located to the west of Shu Lin, and covering approximately half of the garden area is laid out to lawn.

While extensive in area, the garden is only appreciated by the residents of adjoining property. That said, it is also seen and appreciated from the rural land to the south.

The western side of the garden is partially divorced from the donor dwelling by the presence of an existing copse, which is to remain. It is also essential that proposed development which would be situated on this western section of the curtilage does not adversely impact on the wider Conservation Area or the amenities of occupiers of adjacent and nearby dwellings, which includes two listed buildings (initially constructed as one Mansion); the location of development must be carefully positioned. The location of the proposals must also ensure the continued presence of large areas of the site as 'parkland' garden area, which would continue to be privately maintained to the highest standards.

The existing mature peripheral tree cover within the curtilage of Shu Lin does, and will continue to offer an indication of the depth to the site in this sector of Conservation Area. The proposed peripheral tree planting is intended to enhance the existing quality and depth of landscape on the site and the wider Conservation Area.

The Site in its Context

Shu Lin is located in the southern section of the Park Conservation area, a high quality residential area which comprises a mixture of executive houses, several of which are located within extensive gardens, such as the listed dwellings Meadowcroft and Meadowfield, Holly House, and the donor property Shu Lin.

Other executive dwellings located south of Elwick Road with less extensive garden areas include Meadow Lodge, The Moorings, Well Close, No 309 Elwick Road, The Roost and one further dwelling under construction located immediately south of Well Close. The last three dwellings named are located within the original curtilage of Well Close.

Immediately west of Shu Lin is a triangular shaped 'paddock area' which is south and in the same ownership as Meadowcroft.

This area of executive dwellings south of Elwick Road is heavily tree-lined to the west and south, as are the various individual curtilages. The application site itself also has a high leylandii and laurel hedge along its northern boundary which is in the joint ownership of the property owners of Well Close and the donor property.

The design of the residential dwellings identified is extremely varied. The listed buildings Meadowcroft and Meadowfield (which were originally one mansion, Meadowcroft), are complemented by the Meadowfield Lodge fronting onto Elwick Road. The other seven dwellings are all individually designed and uncoordinated one to the other. Their external materials are also as varied as their individual architectural styles.

The site is bounded to the south and to the west by strong tree belts which also form the existing southern edge of the Conservation Area. There are also public footpaths running east/west along its southern boundary and northwards from Summerhill towards to the western corner of the wider Conservation Area.

An assessment of the sites prominence from vantage points to the south has again been undertaken, this time in the presence of officers from the Authority and English Heritage, when it was clear that it is extremely difficult to obtain any meaningful view of the site from the south, and/or Catcote Road in particular. While the site becomes more evident in the winter months, even at that time views of the site are extremely limited and not generally appreciated in the wider view of the Conservation Area as a whole when viewed from the south or when travelling north along Catcote Road.

The actual views of the site from the south are considered less prominent than those of the open space to the south of Briarsfield, a site promoted for future housing by the Authority, a site also located within the Conservation Area.

When viewed from adjacent and nearby public footpaths, in either the summer or the winter, views into the site are restricted by existing hedging and 6 foot high fencing located on raised ground. Due to existing footpath levels relative to site levels, views of any development located towards the southern sector of the site would be restricted. ie only the first floor of a two story dwelling would be appreciated when viewed from the footpath running along the southern boundary. With regard to the public footpath running north from Summerhill, the site is not immediately

visible. Any development in the northern section of the site would remain unseen from these advantage points.

Having regard to the forgoing, in considering appropriate design solutions for development of this windfall site, a full assessment had to be given to the existing nature of the site, its physical relationship with the donor property, the listed buildings to the northwest, and the more recently built dwellings to the north.

The original character of the Conservation Area comprised large, mostly detached mansions set in extensive grounds. However, development in the area over the preceding twenty years and more particularly over the last five years has seen a major change in both the design and the density of residential development in the area. These changes are illustrated by the new housing estates located to the north and east of Ward Jackson Park. They are also specifically illustrated by the recently constructed executive housing located immediately to the north of Shu Lin and south of Elwick Road. These dwellings are in architectural style, totally different one to the other. None of the dwellings in design terms, including the donor property Shu Lin, have had any regard to the form or design of the existing listed dwellings to the northwest, Moorcroft and Meadowfield. As a consequence in considering a design philosophy to consider for development on the application site, the only logical approach was considered to be one which was considered to be a high quality contemporary solution based on the principle of 'two mansions' set in a landscaped setting where all extraneous structures normally associated with detached dwellings could be excluded from the outset.

The Design Process

As with the previous design solutions, the basic aims continue to be the protection of:

- The amenity of the occupants of the donor property, Shu Lin
- The amenity of occupants of adjacent and nearby dwellings
- The existing listed dwellings to the north west
- The need to maximise the openness of the garden area, and
- Preserving and where possible enhance the wider Conservation Area

The results of this assessment were extremely encouraging in that:

- Given the size and location of the side garden in terms of the location of the donor and adjacent residential property, it is possible to locate two executive houses (or mansions) within the site (of a size similar to recently constructed dwellings to the north), without adversely impacting on the amenities of the occupants of adjacent dwellings.
- Highway requirements could be reduced from that initially proposed for the earlier 'terraced proposal'.
- Supporting parking details could be provided in a mixture of carports and parking spaces, which complimented the needs of the design as a whole, while minimising their physical appearance. There would also be ample space to accommodate further parking provision if that was found to be required in the future.
- The proposed 'mansions', despite their cubic content being similar to recently built neighbouring dwellings, are considered to be less

visually intrusive in overall terms than traditional executive dwellings when viewed from adjacent property, and particularly when viewed from the rural area to the south.

- The design offers increased opportunities to improve the future landscaping of the site.

Given these advantages, a revised application based on the principal of two detached executive dwellings, or mansions, located within parkland is considered an ideal solution for development on this underused brownfield site. Such a solution would eliminate the need for property boundary delineation. It would also eliminate any future 'permitted development' rights normally associated with residential development. It therefore continues to maximise the areas of private open space within the residential curtilage as at present.

The proposed apartments would be aimed at those local residents currently under-using their existing executive dwellings, which are known to be in short supply. The proposal would therefore allow such residents to re-locate into the proposed executive apartment accommodation while releasing their existing dwellings, and thereby reduce the need for such accommodation within the area in general.

The density of the development would be at a density considered to be a minimum in Government Guidance contained in PPG3- Housing. .

The proposal to develop an 'apartment solution' situated in a parkland setting is considered to be a 'complete development', which should remain as built in the long term, save the possibly provision of additional parking spaces if that is proved to be necessary.

The proposals relationship with the donor and nearby property ensures that the occupants of those neighbouring dwellings are unaffected by the development. In a like manner the outlook from the existing listed dwellings located to the northwest is also unaffected. Not only are the proposals located to ensure minimal/zero impact on the occupants of the dwellings, existing and proposed landscaping proposals would also assist in eliminating any perceived problems. The proposal would therefore protect, and in the long term enhance the wider Conservation Area

The revised detailed design was submitted in response to the advice received and the comments made by officers of the Authority and Consultees, including English Heritage.

By reducing the number of apartments to 17 and utilising the changing ground levels, the designer has been able to propose two distinctive, but complementing 'mansions' fronting onto the proposed access road, and set in an open landscaped parkland setting. No physical boundaries are proposed between Shu Lin and the proposed 'mansions' south of the central copse of trees, save for a low hedge defining ownership boundaries. It is considered crucial that the final scheme continues to create a parkland setting around the two mansions.

Following advice obtained from independent architects, the actual external designs of the two 'mansions' have also been amended to create the impression of two detached dwellings fronting onto the proposed access road.

With regard to the vehicular access requirements for the scheme, it is considered vital that while hard surfaces and physical structures are minimised within the site, the proposed access must comply with the Highway Authority's vehicular and pedestrian access requirements. It is

therefore proposed that permeable surfaces are utilised wherever possible, despite much of the 'supporting infrastructure' (the access road, car parking areas, car ports refuse bin structures etc) not being appreciated from beyond the site boundary.

Materials

Given the varied nature of design and materials used in the construction of adjacent and nearby dwellings, it would be impossible to propose a pallet of external materials and colours which would satisfy all the requirements of those involved in the development process. Initial thoughts suggest that the external materials of the 'mansions should be natural grey slate roof with external brickwork similar to that used in the construction of The Roost.

As a consequence, it is proposed that while the scheme should be built using quality external materials, their precise colours and details, including those proposed hard surfaces should be made the subject of an appropriately worded planning condition. Following detailed discussions between the appropriate officers and the designer, these matters should be submitted and agreed prior to development commencing.

Arboricultural Assessment

The existing landscape features within the application site have been made the subject of a formal assessment undertaken by 'AllAboutTrees', Arboricultural and Ecological Consulting, who have prepared an Addendum Report which updates the formal assessment initially submitted.

The addendum report to be independently submitted continues to affirm that the revised proposals would have no adverse implications on the existing landscape within the site.

The submitted report concludes that subject to all tree works conforming to BS 3998 (1989), no significant damage should take place during demolition or construction phase **and the tree cover should flourish in the longer term.**

Implications of the Proposal on Highway Matters.

'Waterman Civils', Consulting Engineers were appointed to examine the implications of the proposal on all Highway Traffic and Design matters.

Following their formal assessment of the proposal, including discussions with the appropriate officers at the Authority, they conclude that:

- The access conforms to the Highway Authority geometric requirements. Once past the donor property the private way is to be reduced to minimise the levels of hard surface, but continues to satisfy that required by the Authority in terms of the servicing and parking requirements of the proposal.
- Traffic generated by the proposal in the worst case scenario would not have a significant effect on existing traffic flows in the area in general, and Elwick Road in particular.

They conclude that the proposals should not cause any concerns. It is my understanding that this opinion has not been challenged by the Highway Authority.

Vehicle Access

The site is currently served via a private drive from Elwick Road. This access is unsuitable to serve more than five dwellings and is currently also constrained by three existing trees, a beech and two ash trees. The condition of these three trees is unfortunately highly questionable. The beech tree is effectively dead and its removal will compromise the two ash trees which are physically, very close by. These existing trees, while they still contribute to the visual amenity of the Conservation Area, would in the near future require removal and replacement in the near future. Their removal and replacement at this time, by several new trees positioned close to a new driveway, (comprising Scots Pine, Birch and Oak) would ensure a continuity of cover which would within a very short time scale, considerably enhance this part of the Conservation Area.

As a consequence of the foregoing, an improved access is proposed which:

- Promotes the removal all three trees located at the site entrance. This would afford the opportunity to construct a new private access (to adoptable standards), which together with the proposed replacement trees would enhance the Conservation Area and at the same time improve the range of existing tree cover.
- The access design also includes an entrance wall detail to complement that currently existing in this section of Elwick Road. Once past the donor property the proposed private way is to be reduced in its physical size, but to continue to fully satisfy the servicing and parking requirements of the proposed development.

The highway design is considered to be the most appropriate solution to serve the proposed development and maintain highway safety. In the long term, the solution will also enhance the amenity of the Conservation Area as a whole. Notwithstanding this opinion, if officers or Members are of the view that certain existing trees should be retained at all costs, then an alternative access proposal has also been designed, again to adoptable standards at its entrance onto Elwick Road, but which involves only the removal of the existing beech tree. While this scheme would also satisfy the needs of the proposed development and the Highway Authority, it does not take full advantage of the opportunity provided by the proposal to improve the visual appearance of the Conservation Area in the long term.

The applicant would welcome discussions with the relevant officers of the Authority if this matter were considered to be vital to the success of the proposal.

Traffic Noise Nuisance

As a result of comments received in respect of the initial proposal, the potential for traffic noise impacting on the occupants of adjacent existing, or approved dwellings has been revisited.

As a consequence of the design of proposed access, traffic generated by the proposal would be in single lane formation and travel at a low speed of approximately 10 – 15 mph. This form of traffic movement produces

minimal traffic noise as can be witnessed in the nearby 'Four Winds' development. While the proposed highway design would ensure traffic speed within the site would be maintained at a low speed, the known concerns of the future occupant of the dwelling currently under construction to the rear of Well Close is acknowledged. As a consequence of the known concerns, and notwithstanding the fact that traffic noise generated by the proposal would not be a problem, a 1.8m high acoustic wall has been introduced into the design as a 'belt and braces' solution. The wall would be positioned to the north of the proposed access road and landscaped with a laurel hedge to soften its visual appearance when viewed from the south. In reality this wall will also complement the proposed wall detail around the donor property. Officers of the Authority's Environmental Health Department have confirmed that the proposed acoustic wall would ensure that future residents to the north would be protected from 'traffic noise'.

Drainage Matters

The Waterman Consultancy also carried out investigations into drainage requirements required to support the proposal and again concluded that no problems are envisaged. In this regard the Environment Agency has already recommended approval to the development of 18 no apartments on the site, subject to standard drainage conditions being attached to any approval notice, and subsequently satisfactorily discharged to its satisfaction, before development commences.

Ground Investigations

The necessary ground investigations and a desk top report was undertaken by 'Armstrong Site Investigation'. The conclusion of the report, again submitted as part of the proposal, was:

- In the absence of any known adjacent industrial activity, there is no apparent risk of fill or disturbed ground likely to be found on this site, and
- The desk top study information suggests that there is no significant risk of contamination from previous site use.

Need for Environmental impact Assessment

Regulation 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1991 (SI1999 No 293) makes provision for a 'screening opinion' to be sought up to 3 weeks following the submission of a planning application. Schedule 2 suggests 'urban development' projects on land in excess of 0.5Ha. While the scale of the proposal is nominally in excess of the stated guideline, having regard to the 'brownfield' nature of the site, it is assumed that an E I A would not be required in this instance. We would however, be grateful if you could provide formal confirmation.



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

Derek Stephens Associates
17 Lowthian Road
HARTLEPOOL
Cleveland
TS24 8BH

Dept of Environment & Development
Bryan Hanson House, Hanson Square

Your Ref:

B3032

Our Ref:

T/APP/H0724/A/98/298990/P7

HANDLED TO:

REPLY

FILE NO

Date:

15 DEC 1998

update computer record advise Cllr, District + Cllr.

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 & SCHEDULE 6 APPEAL BY PAUL HOPPER ENTERTAINMENTS LTD APPLICATION NO: H/OUT/0553/97

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of the Hartlepool Borough Council to refuse outline planning permission for the construction of new private driveway within the grounds of "Meadowcroft" and the provision of three plots for detached dwellings on land at Meadowcroft, Elwick Road, Hartlepool. I conducted a hearing on 2 December 1998.
2. The application was submitted in outline form with all matters reserved for future consideration except for siting and means of access. I shall determine the appeal on this basis. The appeal site is part of the setting of a Grade II listed building and is situated within the Park Conservation Area. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of the listed building and Section 72(1) of the same Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
3. From the foregoing, my inspection of the site and its surroundings, and from the written representations, I consider the main issues to be the effect of the proposal on; first, the setting of the listed building; second, the character of the Park Conservation Area; and third, highway safety on Elwick Road.
4. The Development Plan for the Area includes the Hartlepool Local Plan (LP). LP policy Gen1 provides that, in determining planning applications, the Council will take account of, amongst other things, the external appearance of the development and its relationships with the surrounding area, highway safety, and existing trees and other landscape features. Criteria based LP policy Co2 reiterates the requirement of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. LP policy Ho7 carries forward the thrust of LP policy Gen1 with regard to housing developments and LP policy En15 states that the felling of trees which are subject to a Tree Preservation Order or which are within Conservation Areas will not normally be permitted and where permission is given to fell trees replacement planting will normally be required.

100%



An Executive Agency in the Department of the Environment, Transport and the Regions, and the Welsh Office

5. In consideration of the first issue, the listed building was originally built as a large villa, in 1895, but is now two dwellings, Meadowcroft and Meadowside. The dwellings are surrounded by substantial garden and recreational areas and the building is set back about 40 metres behind a high boundary wall to Elwick Road. The appeal site, which is an unused paddock, lies to the south of the listed building. It is an open area across which there is an expansive vista towards open countryside from the principal rooms in, and terraced private garden areas to, the dwellings. To the west of Meadowcroft and the appeal site is a woodland area protected by a Tree Preservation Order. This woodland area is likely to have remained virtually undisturbed since the construction of the original villa.

6. Access to the proposed housing development would be off the drive leading to Meadowcroft. The proposed access would be about 140 metres long and would pass through the woodland area for its whole length. You have stated that the construction of the access would result in the loss of only five trees out of a total of 160. Even though this may be a conservative estimate of tree loss I am not so concerned about this element of the proposal given that there is scope for replacement planting. However, the proposed access road would, in my opinion, be an intrusive and incongruous feature which would harm the appearance of the woodland area and result in it losing its undisturbed character.

7. The vista across the appeal site is, in my judgment, particularly important. The position and orientation of the original villa will have been established to take advantage of the open south-facing aspect towards countryside and away from urban development to the north. The woodland area curves around to the south and enhances this aspect which is directly across the appeal site. Though the listed building is slightly higher than the appeal site the proposed dwellings, given their siting and intended size, would almost completely obscure the open aspect across the appeal site. This would cause serious damage to the setting of the listed building. In my opinion, the proposed construction of the access drive and the dwellings would harm, and would therefore not preserve, the setting of the listed building. The proposal would thus be contrary to the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8. In consideration of the second issue, the Conservation Area encompasses a substantial urban area to the north and east of the appeal site, the parkland setting of the listed building, and the woodland area. It also encompasses a paddock area and listed building, Tunstall Hall, to the west of the woodland area. In contrast to elsewhere around the edge of the Conservation Area it is in the vicinity of the appeal site that the Conservation Area has a rural nature. This, in my view, is an important element of the character of the Conservation Area. Along the south-west edge of the woodland area is a public footpath which divides to continue both to the east and south. In the latter direction the footpath rises onto higher ground known as Summer Hill from which the appeal site is clearly visible. From the footpath adjoining the woodland area and from other vantage points to the west the site would be screened, during the summer months, by the dense deciduous woodland. However, at the time of my site visit, the site was visible through the trees.

9. Criteria (i) of LP policy Co2 states that the scale and nature of the development should be appropriate to the character of the Conservation Area. Again, I am not so concerned about the loss of trees or the construction of the access road. However, from the west the proposed dwellings would be in line and would be seen as ribbon development, along the skyline from the footpath adjoining the woodland area, extending into the rural edge of the Conservation Area. From all directions, particularly from Summer Hill, the development

would be a prominent and intrusive feature in the landscape. I can only conclude that the scale and nature of the proposal would be inappropriate to, and would therefore not preserve, the character of the Conservation Area. I have reached this conclusion despite the size of that part of your client's property which would remain undeveloped and the similar nature of a nearby dwelling to the east, Shu Lin. The proposal would thus be contrary to LP policy Co2 and to the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

10. In consideration of the third issue, the entrance to the drive to Meadowcroft is at the unusually wide junction of Elwick Road and a lane which leads to Tunstall Hall and three other dwellings. Elwick Road widens considerably in the vicinity of the junction and traffic is subject to a 30 mph speed limit. Notwithstanding the configuration of the junction it was agreed at the hearing site visit that visibility to the east along Elwick Road for drivers of vehicles exiting the lane, which is restricted by the boundary wall, is only about 42 metres. Given that this is below any recommended minimum standard the Council contend that the additional traffic that would be generated by the proposed development would compromise highway safety.

11. The speed of traffic approaching from both directions is unlikely to exceed the speed limit due to the proximity of a right angle bend in Elwick Road about 60 metres to the west. Visibility in this direction is unrestricted allowing drivers of vehicles exiting the junction, when there are no vehicles approaching from the west, to concentrate on traffic approaching from the east. Given also that five properties are accessed off the lane and that I have seen no evidence to suggest that the safety of traffic is currently at risk it is my opinion that the additional traffic associated with the proposed development would not adversely affect highway safety on Elwick Road. In this respect the proposal would not be contrary to LP policy Gen 1.

12. Turning to other material considerations, you assert that the Council have established a precedent for the proposed development, with regard to its position within the Park Conservation Area, by allowing other housing developments and by allocating for housing other currently undeveloped sites. Apart from the permitted development within the boundaries of The Moorings and Well Close, to the east of the appeal site, all the other sites to which you have referred are clearly within the built-up area. The aforementioned neighbouring development would be within established residential curtilage and would not extend in a linear form into the adjoining countryside. There are, in my view, significant differences between these other developments and your client's proposal. You have also brought to my attention other listed buildings in the area close to which other development has been allowed. None of these other listed buildings have similar settings to the appeal building. Previously permitted development is not a sufficient reason to allow harmful development. In any event, it is a well established planning principle that each development proposal is considered on its merits.

13. Taking all these factors into account I have concluded that the proposed development would have a significant adverse effect on the setting of a listed building and on the character of the Park Conservation Area but would not compromise highway safety on Elwick Road. Notwithstanding my conclusion on the third issue it is my opinion that the harm that would be caused to the setting of the listed building and to the Conservation Area is of overriding concern and warrants withholding planning permission in this case. I have decided that the proposal is therefore unacceptable.

14. I have taken into account all other matters raised but have found nothing that outweighs the main considerations that have led me to my decision.

15. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully

John Braithwaite

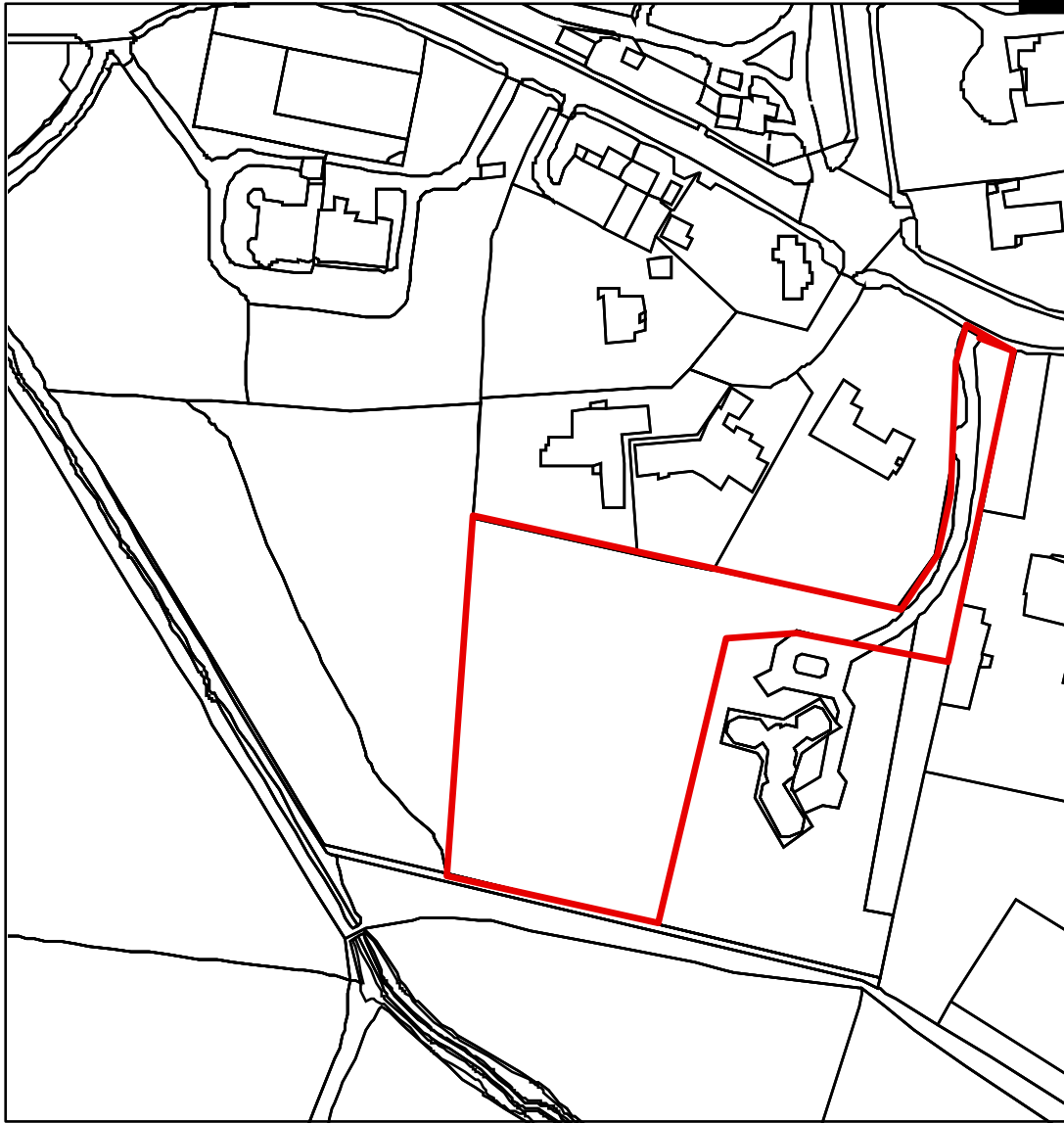
John Braithwaite BSc(Arch) BA(Hons) RIBA
Inspector

11. The speed of traffic approaching from both directions is unlikely to exceed the speed limit due to the proximity of a right angle bend in Elwick Road about 60 metres to the west. Visibility in this direction is unobstructed allowing drivers of vehicles exiting the junction when there are no vehicles approaching from the west, to concentrate on traffic approaching from the east. Given also that five properties are accessed off the lane and that I have seen no evidence to suggest that the safety of traffic is currently at risk it is my opinion that additional traffic associated with the proposed development would not adversely affect highway safety on Elwick Road. In this respect the proposal would not be contrary to L.P. policy Gen 1.

12. Turning to other material considerations, you assert that the Council have established a precedent for the proposed development, with regard to its position within the Park Conservation Area, by allowing other housing developments and by allocating for housing other currently undeveloped sites. Apart from the permitted development within the boundaries of The Moorings and Well Close, to the east of the appeal site, all the other sites to which you have referred are clearly within the built-up area. The aforementioned neighbouring development would be within established residential contours and would not extend in a linear form into the adjoining countryside. There are, in my view, significant differences between these other developments and your client's proposal. You have also brought to my attention other listed buildings in the area close to which other development has been allowed. None of these other listed buildings have similar settings to the appeal building. Previously permitted development is not a sufficient reason to allow harmful development. In any event, it is a well established planning principle that each development proposal is considered on its merits.

13. Taking all these factors into account I have concluded that the proposed development would have a significant adverse effect on the setting of a listed building and on the character of the Park Conservation Area but would not compromise highway safety on Elwick Road. Notwithstanding my conclusion on the third issue it is my opinion that the harm that would be caused to the setting of the listed building and to the Conservation Area is of overriding concern and warrants withholding planning permission in this case. I have decided that the proposal is therefore unacceptable.

Shu Lin, Elwick Road



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:1500	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H-2006-0304	REV

No: 3
Number: H/2006/0506
Applicant: Hartlepool Borough Council
Agent: Hartlepool Borough Council Bryan Hanson House
 Hanson Square Lynn Street Hartlepool TS24 7BT
Date valid: 03/07/2006
Development: Erection of security fencing and gates
Location: Rear of 1 BLAKELOCK GARDENS/ STOCKTON
 ROAD/MARSKE STREET/WESTBOURNE ROAD
 HARTLEPOOL HARTLEPOOL

The Application and Site

3.1 The application is to provide security gates and fencing to the back street behind properties in Stockton Road, Marske Street and Westbourne Road.

3.2 The security gates and fencing are a method of restricting access to the rear of properties in order to reduce crime and access to undesirables. Locakable gates are erected at either end of the 'back street' enclosing it to improve security.

3.3 Similar gates have been erected at a number of other back streets in the town.

Publicity

3.4 The application has been advertised by way of neighbour letters (16). To date, there have been 3 objections and one email neither supporting or objecting.

3.5 The concerns raised are:

- 1) restricted access for business users,
- 2) no off street parking to front of Stockton Road,
- 3) inconvenience to have to open gates for visitors,
- 4) would restrict access to rear garden.

Copy letters E

3.6 The period for publicity has expired.

Consultations

3.7 The following consultation replies have been received:

Head of Traffic and Transportation – This application would have highway implications if approved. The section of Stockton Road, which will be affected by the gates, is made up of businesses and residential properties. A Traffic Regulation

Order prevents parking at the front of these properties. However there is off-street parking available at the rear. Marske Street and Westbourne Road are residential. There are no parking restrictions in the front streets of Marske Street and Westbourne Road and on-street parking can take place. The following streets are due for consultation for resident parking which could also have an affect on the parking if the gates are erected: Marske Street, The Maltings and Redcar Close.

Where gates have been erected in other areas, which have involved businesses and residential there have been conflicts over the gates being open or closed during normal operating times. Businesses want the gates to remain open so they can facilitate deliveries and customers while the residents want them to be closed at all times. In most cases compromise have been achieved and the residents understand that the gates should remain open during the day so that the businesses can operate and will be closed once they have closed.

On Stockton Road, there are number of businesses, which do not operate during the normal business hours of 9-5 and could be open till midnight. These are the Social Club and the hotel. They will want the gates to be open so access to them is not affected. This would cause a conflict with the residents who will want them closed at these times. With the gates in place, it could make it difficult for these businesses to operate and they may suffer in the loss of trade.

Consultation with all parties has resulted in strong objections to the gates from some of the business. This was reported to the Culture, Housing and Transportation Portfolio but the decision for the gates to be erected was made.

If the gates are erected, it may increase on-street parking in Stockton Road to the detriment of highway safety, as vehicles will not be able to gain access to the rear and would park at the front, which has parking restrictions on it. There could also be loss of trade to the businesses on Stockton Road.

Head of Public Protection – No objection

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.

Planning Considerations

3.9 The main planning considerations in this case are the effect of the proposal on local residents and businesses and the effect of the security fencing and gates within the street scene.

3.10 The proposal aims to erect security fencing and gates to restrict access to the rear of properties in Stockton Road, Marske Street, Westbourne Road and Blakelock Gardens.

3.11 The section of Stockton Road, which will be affected by the gates is made up of businesses and residential properties. A Traffic Regulation Order prevents parking at the front of these properties. However there is off-street parking available to the rear. Marske Street and Westbourne Road are residential. There are no parking restrictions in the front streets of Marske Street and Westbourne Road and on-street parking can take place. However, these streets are due for consultation for resident parking which could have an effect on the parking.

3.12 As the Head of Traffic & Transportation has indicated gates that have been erected in other areas of the town, which have involved a mixed use of both residential and businesses have caused conflict over the gates being open or closed during normal operating times. Businesses want the gates to remain open so they can facilitate deliveries and customers while the residents want them to be closed at all times.

3.13 The businesses that are to be included in the scheme are a Social Club, Hotel and Veterinary Surgery, which do not operate exclusively during normal business hours of 9-5 and could be open till midnight. The Veterinary surgery operates a 24 hour emergency service.

3.15 There are car parking areas to the rear of the Hotel, Social Club and Veterinary Surgery.

3.16 The garage repair business also relies on access being available for customers to drop off and collect their vehicles.

3.17 Concerns have been raised from the Highways Engineer that if the gates are erected there may be an increase on-street parking in Stockton Road to the detriment of highway safety, as vehicles will not be able to gain access to the rear and would park at the front, which has parking restrictions on it.

3.18 There is an additional concern that comings and goings outside normal business hours and particularly late at night could, if gates are locked, lead to increased noise and general disturbance to those residents where the gates are to be fixed.

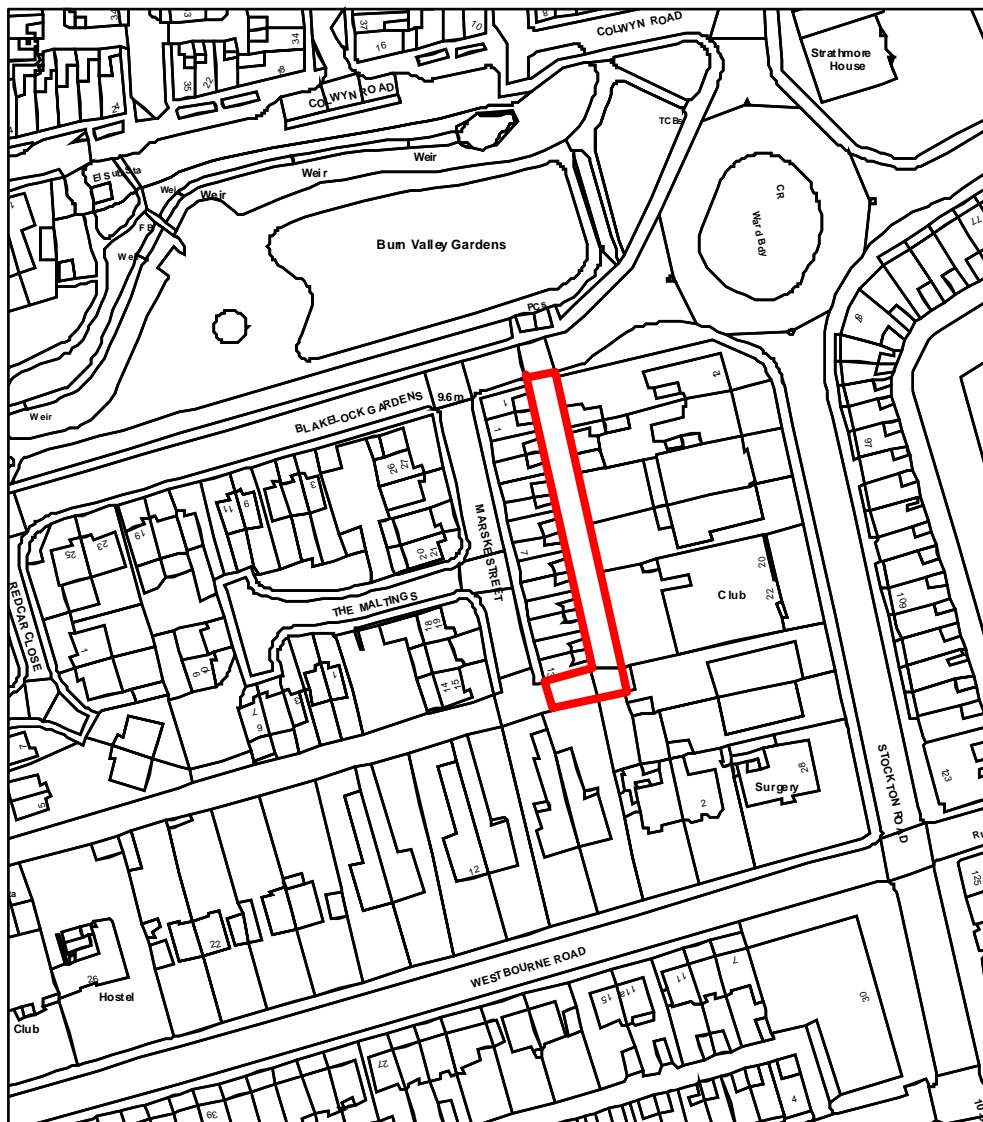
3.20 While in most cases gating would be welcomed there are serious concerns in this case.

RECOMMENDATION - REFUSE

1. It is considered that the proposal could result in on-street parking on Stockton Road, to the detriment of highway safety and the free flow of traffic contrary to policy GEP1 of the adopted Hartlepool Local Plan.
2. It is considered that the proposal could lead to increased noise and general disturbance to those residents living close to where the proposed gates are to be fixed at times of the day when those residents could reasonably expect the peaceful enjoyment of their homes contrary to policy GEP1 of the adopted Hartlepool Local Plan.



Eldon Grove Primary School



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 14/9/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2006/0506	REV

No: 4
Number: H/2005/5921
Applicant: Chase Property Dev Limited C/O Agent
Agent: Savills Fountain Court 68 Fountain Street Manchester M2 2FE
Date valid: 04/11/2005
Development: Alterations to existing units, erection of additional units and associated infrastructure and landscape works
Location: Teesbay Retail Park Brenda Road Hartlepool

The Application and Site

4.1 Outline planning permission is sought for an expansion of retail development at Teesbay to provide 6,480 sq metres gross of additional retail floor space together with associated landscape and infrastructure works at the Teesbay Retail Park. A plan is provided showing the proposed floorspace accommodated within 8 new units. Essentially the development would complete a horseshoe shape with 2 additional more centralised units. An existing unit situated adjacent to Halfords would be demolished. It is also proposed to refurbish existing units within the site. An additional 195 car parking spaces would be provided, revised internal road layout and new service access road. A scheme of landscaping is also proposed including additional soft planting at the entrance and throughout the retail park. The application is for the principle of development with access and siting of units to be considered at this stage and all other matters reserved for later consideration.

4.2 The existing retail park was constructed some 20 years ago. Over time there has been a deterioration in the physical environment of the park. There is a vacancy rate on the park of some 25 per cent.

4.3 The application has been supported by various documents including a retail statement, a green travel plan, a transport assessment and draft planning agreement which sets out a commitment to meet local employment initiatives.

4.4 A retail statement has been submitted which has drawn the following conclusions in support of the application:-

1. The proposal is to be restricted to the sale of bulky goods.
2. The application site is located in an established bulky good retail warehouse location. The consolidation of bulky goods retail warehousing in this location accords with sustainability objectives and advice. It would conform with the objectives of the Hartlepool Retail Study through meeting identified deficiencies in qualitative need, forming a critical mass of bulky goods retailing in one location.
3. There is more than sufficient capacity to support the projected increase in turnover generated by the development.

4. The site is the most sequentially preferable location for proposed development.
5. The development would not lead to an adverse effect on the town centre.

4.5 The applicant states that Teesbay has never reached the form it was originally intended. It is looking dated, there are significant vacancy rates and the aim is to create a more attractive shopping environment.

4.6 A transport assessment has drawn the following conclusions:-

1. The site is accessible by non-car travel modes including foot, cycle, bus and rail.
2. The local highway network will operate with substantial reserve capacity following the opening of the proposed development.
3. The proposed level of car parking is sufficient to deal with the projected level of demand.

Publicity

4.7 The application has been advertised by way of press notice and site notice and direct notification to existing site tenants. To date a letter of objection has been received from GVA Grimley on behalf of the developers of Victoria Harbour. The points of contention are summarised as follows:-

1. Victoria Harbour and other identified commitments will fully meet the qualitative and quantitative need for additional bulky goods floorspace in the area over the next 5 years.
2. The assessment of capacity takes no account of the need to make an allowance for improved turnover and efficiency of existing retail floorspace and leakage of expenditure.
2. Teesbay Retail Park is under-performing reflecting its lack of effective frontage/accessibility. Victoria Harbour provides a better more sustainable location for retail development.
3. In addition to retail policy objections it would create an alternative competing out of centre location which would undermine retailer/investor confidence in Victoria Harbour proposals and this undermines the wider regeneration of the area.

Copy letters D

The publicity period expires after the meeting..

Consultations

4.8 The following consultation replies have been received:

Tees Valley Joint Strategy Unit raises the following comments and concerns:-

1. The proposal for expansion of bulky goods retailing at Teesbay Retail Park would not conform to the location strategy of both Regional Planning Guidance for the North East and the adopted Tees Valley Structure Plan. The predominantly industrial location of the site has contributed to its economic failure to thrive. The site is deleted from the preferred retail locations in the revised Local Plan.
2. The current application is an attempt to achieve a critical mass of retailing and therefore secure the future success of the site.
3. The site is adjacent to a socially deprived housing area. A planning agreement is proposed to offer retail employment opportunities to local people on the expanded site.
4. There are concerns that the site is not capable of being well served by public transport and that it is not accessible to non-car travel modes.
5. The Borough Council should be satisfied that the retail development proposed complements the vitality and viability of the town centre and complements other regeneration initiatives both underway and planned.

English Nature – No objection. Only a limited possibility of damage/disturbance being caused to breeding birds. Recommend that construction work takes place outside bird nesting season. It would be beneficial if the proposed development included measures to restrict use by off-road motorbikes.

Environment Agency – No objection subject to conditions to prevent pollution of the water environment. A flood risk assessment should be provided to the satisfaction of the Local Planning Authority. The site is within 250 metres of a landfill site. The Environment Agency hold insufficient information to determine the extent to which landfill gas poses a risk to this development.

Northumbrian Water – No objection. Comments regarding sewage. Drainage from large car parks to be filtered through oil interceptor.

Engineering Consultancy Manager – recommends the imposition of conditions to allow the remediation of the site if found to be contaminated. Consider there to be adequate capacity to deal with surface water arising from the site.

Head of Public Protection and Housing – no objections.

Highway Engineer:

1. Parking Provision is acceptable
2. Increase in traffic associated with the development will not have major implications on the highway network.
3. Pedestrian accesses to the development are adequate.

4. Travel Plan framework is acceptable.
5. Cycle parking provision required.

Planning Policy

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

COM1: states that the town centre will be developed as the main shopping, commercial and social centre of Hartlepool. The town centre presents opportunities for a range of commercial and mixed use development subject to policies Com2, Com3, and Rec14. Proposals for revitalisation and redevelopment should improve the overall appearance of the area, and also public transport, pedestrian and cycleway facilities and linkages. The Borough Council will encourage the enhancement of existing or creation of new open spaces. The Borough Council will seek to secure the re-use of vacant commercial properties including their use for residential purposes. Proposals for A3, A4 and A5 uses will be subject to the provisions of Rec13 and Com12 and will be controlled by the use of planning conditions.

Com 8: Lists the preferred locations for shopping development as:

- Town Centre
- Edge of Centre
- The out-of-centre Victoria Harbour Regeneration Area
- Other out of centre locations accessible by a choice and means of transport and which offers regeneration benefits.

Developments which are outside of the primary shopping area and that are over 500sq m will be required to demonstrate need, justify scale and demonstrate a sequential approach has been followed.

The policy also highlights the need for retail impact assessments in all developments over 2500sq m and in those between 500-2499sq m where the Council deems it necessary.

Travel plans must accompany all schemes over 1000sq m. Planning conditions and/or legally binding agreements may be used to secure improvements to public transport, cycling and pedestrian accessibility.

The Council will seek legally binding agreements to secure rationalisation of retail provision. Conditions will be attached to planning permissions to control hours of operation.

COM7: identifies Tees Bay area for mixed uses comprising non food retail, leisure and business uses provided that they accord with policies Com8, Com9, Rec14 and Com12. Travel plans should be prepared for large scale developments. Planning conditions and/or legally binding agreements may be used to secure improvements to public transport, cycling and pedestrian accessibility. Legally binding agreements will also be sought to control the type of goods sold from retail premises.

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

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

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

GEP9: states that the Borough Council will seek contributions from developers for the provision of additional works deemed to be required as a result of the development. The policy lists examples of works for which contributions would be sought.

Planning Considerations

4.10 The main issues for consideration in this case are the suitability of the development in terms of national and local retail policies and the transportation effects of the development.

Retail Policy Issues

4.11 The application has been examined by Drivers Jonas who have previously produced the Hartlepool Retail Study examining the strength of trading in the town.

4.12 The application has resulted in Drivers Jonas reviewing the findings of the retail study. That study concluded that without an increase in Hartlepool's market share, i.e. an increase in the number of people living in the Hartlepool area shopping there then there would be no further capacity for further bulky goods floorspace to 2011.

4.13 Drivers Jonas consider however that an increase in Hartlepool's market share of retailing is likely based on improvements to Hartlepool town centre and the anticipated Victoria Harbour development.

4.14 Drivers Jonas have concluded that on the basis of a projected increase in Hartlepool's share of market funding (following the Middleton Grange extension and Victoria Harbour proposals and including the proposed development) there is sufficient quantitative capacity to support the proposals. They conclude that in the event that the Middleton Grange commitment does not proceed and market shares remain constant the additional capacity that would have been taken up would be

available for development at Teesbay, without harm to the existing town centre. Drivers Jonas consider that the impact on the town centre will not be harmful to the strength of trading there, whilst also taking account of Victoria Harbour.

4.15 Drivers Jonas advise, however, that conditions should be imposed to ensure that traders are not drawn away from the town centre so as to protect its vitality and viability. These include restrictions to the scale of the development to that proposed; each unit to have a minimum floorspace and restrictions on the types of goods being sold. The level of floorspace to which each unit should be restricted remains under considerations and as such an update report will be provided.

Tees Bay as an out of town centre site

4.16 Tees Bay is an out of town centre shopping development initially constructed in the late 1980s under the provisions of the Enterprise Zone scheme. It is, however, relatively remote from residential areas of the town and is considered by Government Office to be an unsustainable location. The retail park has never been fully occupied.

4.17 In view of the above comments the site has no preference in a sequential search for retail development. Rather the site is likely to be identified as a mixed use site and treated as an out of centre location of low priority.

4.18 Policy Com8 of the adopted Local Plan identifies preferred locations whereby out of centre locations would be fourth in the hierarchy.

4.19 The preferred locations for shopping development are:

1. Within Hartlepool town centre
2. Edge of centre sites
3. Out of centre Victoria Harbour regeneration area.
4. Other out of centre locations accessible by a choice of means of transport and which offer significant regeneration.

4.20 Proposals outside the primary shopping area in the town centre will only be approved in the preferred locations where

- a) need is demonstrated
- b) the scale is appropriate to the area
- c) the sequential approach on location has been followed.
- d) either by itself or cumulatively, the development would not prejudice the vitality and viability of Hartlepool and other nearby town centres, or significantly adversely affect the viability of the local centres.

4.21 The sequential analysis has concluded that while there may be alternative sites capable of accommodating some of the individual constituent elements of the proposals either within or on the edge of the town centre, they would not be suitable or viable for the proposed scheme. Breaking up the scheme would reduce its critical mass which would be counter-productive to the underlying rationale behind the

application. It is accepted that level of the concentration of investment in this location will help to act as a catalyst to achieve regeneration of an established bulky goods retail warehouse location and, therefore, the wider economic prosperity of the town. Furthermore if this scheme were to be broken up the advantage of concentrating the proposed floorspace in a single location in terms of encouraging linked trips would be lost.

4.22 The town centre retail study found that it would be preferable for new comparison retailing to be constructed on a single retail park but this should be at least in one location. Given the recent retail developments in the Marina area ie former Seymour site and also the Victoria Harbour commitment, the approval of further retailing at Tees Bay would tend to cut across these findings. Indeed Drivers Jonas confirm that the preferred retail park location to be promoted would be the Marina area (which will be consolidated by the Victoria Harbour proposals) given its existing success and potential for improved links with the town centre. The difficulty however is that Teesbay is an existing facility which is significantly under-performing. Without the current proposals it is likely that the park would continue to under-trade and become even further run down. The retail park owners have confirmed that there would be no prospect of any re-development of the site for anything other than retail use due to existing rental agreement clauses.

4.23 It should be noted that The Secretary of State would need to be consulted under the Shopping Floorspace Directive if Members are minded to approve this application.

Siting of Units

4.24 There is no objection to the proposed siting of units in physical terms. However because the question of minimum unit size remains under consideration this may have a bearing on the final siting details. This matter will be considered further within an update report.

Highway Issues

4.25 The Head of Transportation has confirmed that he would advocate the incorporation of a cycleway linking the site and the Longhill Industrial area. This would be practically achievable through a planning agreement and is a measure the applicant is giving consideration to.

4.26 The site is served by the No 1 (Monday-Sunday) and 1A (Monday-Saturday) bus services which stop adjacent to Teesbay on Brenda Road. The no 1 service links Brenda Road with the town centre and High Tunstall area to the north and Middlesbrough Bus Station to the south. The 1A service serves High Throston, the town centre and Seaton Carew areas of the town.

4.27 An examination of the bus timetable indicates that between 8am and 6pm there are around 4 services per hour passing along Brenda Road of either the 1 or 1A. The area is therefore considered to be reasonably well served by these services, and as such the application should not be refused on these grounds.

4.28 A travel plan is also offered with a view to reducing reliance on car travel to site. There is no objection to the scheme on traffic access related grounds.

Flood Risk

4.29 The applicant's flood risk assessment has been examined by the Engineering Consultancy. It considers that the development will not lead to any adverse flood risk implications and that the current drainage capacity will be able to cope.

Landfill Gas

4.30 The risk of landfill gas and how it is to be dealt with would form part of a strategy for remediating any contamination found to be present on the site. This study can be required through a planning condition in the event that Members are minded to approve the project.

Conservation Issues

4.31 The site is not considered to be within such a sensitive ecological location as to justify restriction over construction periods.

Other issues

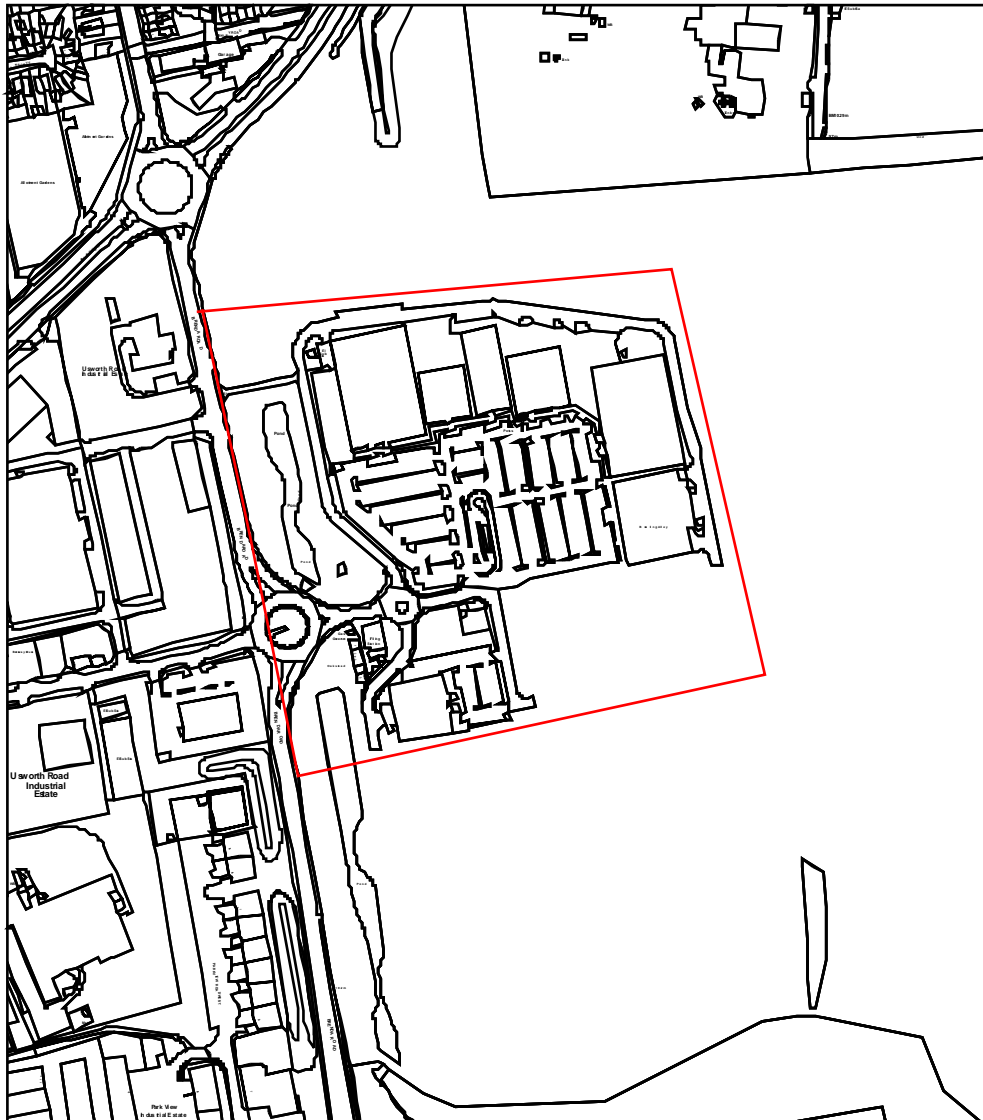
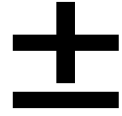
4.32 The site lies in close proximity to the Belle Vue housing area and a planning agreement is offered to ensure that employment opportunities to local people are made available on the expanded retail park site. The development would give the site a degree of enclosure which may help to deter unauthorised encroachment into the area by off road motorbikes.

Conclusion

4.33 The proposal is considered to assist in the regeneration of the Teesbay retail park with the economic regeneration and qualitative environmental improvements this offers. Drivers Jonas has concluded that there is capacity to accommodate the project without causing harm to the viability of the town centre and the Victoria Harbour project. Whilst the proposals would not conform to the finding in the retail study that comparison retailing should be consolidated in one area of the town on balance this is considered to be outweighed in importance by the need to halt the environmental decline of Teesbay taking into account the available capacity identified. The project provides an opportunity through planning agreement to secure a cycleway link connection, and to provide job opportunities for local people.

RECOMMENDATION - Update to follow

Teesbay Retail Park



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 14/9/06
	SCALE 1:4000	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/5921	REV

No: 5
Number: H/2005/6033
Applicant: Mr Mrs Hopper MEADOWCROFT ELWICK ROAD
HARTLEPOOL TS26 0BQ
Agent: Blackett Hart & Pratt Westgate House Faverdale
Darlington
Date valid: 23/12/2005
Development: Erection of a gatehouse
Location: MEADOWCROFT ELWICK ROAD HARTLEPOOL
HARTLEPOOL

The Application and Site

5.1 Full planning permission is sought for the erection of a gatehouse, a detached dwellinghouse. The site is located to the east of the entrance to Meadowcroft on a triangular site largely enclosed by high brick walls on two sides and a fence on the third. To the east and south is the walled garden associated with Meadowcroft. To the north is Elwick Road. To the west is the existing access to Meadowcroft beyond which is a woodland.

5.2 The original proposals submitted with the application were considered unacceptable. Following discussions the applicant has amended his proposals to bring forward a more sympathetic design in terms of its form, scale and detailing. The revised proposals are for a four-bedroom dwellinghouse with attached garaging. The site will be enclosed by the existing walls and by a low wall, pillars and railings to the west side. Access to the dwellinghouse will be taken from the existing access drive to Meadowcroft.

5.3 Meadowcroft and the adjoining Meadowsides are grade II listed buildings located within the Park Conservation Area and originally together formed a single large villa. The listing describes the building as "Large villa, now as 2 dwellings. Dated 1895 on plaque in left gable end. Red brick with ashlar dressings; clay tiled roof; quasi Tudor style. Main garden front". Access to Meadowcroft is taken from Elwick Road. On the east side of the access is a high brick wall which compromises visibility at its junction with Elwick Road. The house is set within extensive grounds, which include a walled garden, a woodland and the paddock area referred to above. The woodland is protected by a tree preservation order.

Planning History

5.4 In December 2005 an application for outline planning permission for the erection of four detached dwellings was refused. (H/2005/5697) The proposal related to the provision of three dwellinghouses in the paddock area to the rear of Meadowcroft and a dwellinghouse on the current application site. The application was refused for reasons relating to adverse affect on the character and setting of the listed buildings, adverse impact on the character and appearance of the Conservation Area and the

relationship with adjacent development. The applicant appealed against the refusal but later withdrew the appeal. It was acknowledged in the committee report at this time that whilst the development as a whole was not considered acceptable given the historical precedence for gatehouse buildings in the Conservation Area a small lodge type building appropriately designed might be appropriate on this site.

5.5 In February 1998 outline planning permission for the erection of 3 detached dwellings and associated internal access and related tree works was refused (H/OUT/0553/97). The proposal related to the provision of three dwellinghouses in the paddock area to the rear of Meadowcroft. The application was refused for reasons relating to highway safety, adverse affect on the character and setting of the listed buildings, adverse impact on the character and appearance of the Conservation Area and the amenity of the area. The applicant appealed against the refusal. The Planning Inspector dismissed the appeal concluding that the proposed development would have a significant adverse effect on the setting of the listed building and on the character of the Park Conservation Area. He did not consider however that the proposal would compromise highway safety on Elwick Road.

5.6 In November 1996 outline planning permission for the erection of 9 detached dwellings together with access improvements and landscaping, including the removal of a tree subject to a Tree Preservation Order was refused (H/OUT/0283/96). The proposal briefly related to the provision of three dwellings on the frontage onto Elwick Road, three in the woodland to the west of Meadowcroft and three dwellings in the paddock to the rear and alterations to the access including the realignment of the roadside wall. The application was refused for reasons relating to the adverse impact on the character and appearance of the listed buildings, adverse impact on the character and appearance of the Conservation Area and the adverse affect on the character of the woodland.

Publicity

5.7 The original proposals were advertised by neighbour notification (18), site notice and by press advert. The time period for representations has expired.

Sixteen letters of objection and two letter of no objection were received.

The objectors raise the following issues:

Listed buildings should be protected.

Adverse impact on character & setting of listed building.

Adverse impact on character & appearance of Conservation Area

Impact on/disturbance of wildlife and loss of habitat.

Highway safety/dangerous access onto busy road/increase in traffic.

Adverse impact on Meadowside.

No demand.

Area being spoiled by infill development.

Precedent - will encourage further development.

Trees have been removed proposed gatehouse will be prominent and alien.

Proposed gatehouse does not reflect the character of Meadowcroft or the existing lodges. It is not a gatehouse just a large house/mansion/villa.

Meadowcroft already has gatehouses.

Loss of green space.

Lots of work put into making Ward Jackson Park a beautiful place to visit.

The amended proposals were advertised by neighbour notification (19).

Ten letter of objection were received and two letters of no objection.

The objectors raise the following issues

A modern gatehouse would detract from the visual amenities of this attractive area and be an anachronism.

Adverse impact on character & setting of listed building.

Adverse impact on character & appearance of Conservation Area

Too large and design not appropriate.

Trees have been removed exposing the site to public views.

Highway safety/dangerous access onto busy road/increase in traffic. Access already serves a number of houses and is a public footpath

Detrimental impact on wildlife and habitats.

Boundary wall should be made safe

Precedent.

Copy letters C

Consultations

5.8 The following consultation were received in relation to the original proposals:

Head of Public Protection & Housing - No objections.

Traffic & Transportation - No objections.

Northumbrian Water - No objections to proposed connection of foul sewage to public sewers. Alternative means should be found for the disposal of surface water if possible.

English Heritage - English Heritage provided comments on the previous application covering the wider Meadowcroft grounds. Although this application site is below 1000 sq.m, and therefore not a notifiable application, we offer the following informal comments.

Whilst we recommended that the previous application should be refused on the grounds that the proposed larger development would be detrimental to the character and appearance of the conservation area and the setting of the grade II listed buildings, we did say that 'we would have no objection in principle to the construction of a very small lodge-type building in the location proposed'.

As such, we have no objection to the principle of this proposal for a gatehouse, however the scale and design of the proposed dwelling are wholly inappropriate for such a building. We recommend that the applicant reduces the size of the dwelling to a maximum of one and a half storeys, reduces the footprint and simplifies the architectural treatment to reflect the status of a gatehouse in relation to the principal dwelling.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

Rambles Association - No comments.

Engineering Consultancy - Condition requiring site investigation and appropriate remediation in relation to any contaminants identified on the site requested.(Summary)

Planning Policy

5.9 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.

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

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

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

GEP9: states that the Borough Council will seek contributions from developers for the provision of additional works deemed to be required as a result of the development. The policy lists examples of works for which contributions would be sought.

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.

HE10: states that the siting, design and materials of new developments in the vicinity of listed buildings should take account of the building and its setting. New development which adversely affects a listed building and its setting will not be approved.

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

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

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

Planning Considerations

5.10 The main planning considerations in this case are considered to be policy, the impact of the proposal on the character and appearance of the Conservation Area/Listed Building, Highways, impact on the amenity of neighbours, trees and wildlife.

5.11 The site lies within the limits to development where infill development at the scale proposed is acceptable in principle.

THE IMPACT OF THE PROPOSAL ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA/LISTED BUILDING.

5.12 The site is within the Park Conservation Area and within the curtilage of the Grade II listed Meadowcroft. It is a prominently located at the entrance and adjacent to the public road.

5.13 The principle of a gatehouse building in this location is considered acceptable in principle reflecting existing gatehouse developments elsewhere within the Conservation Area. Following discussion the initial inappropriate designs have been amended. The building now proposed is much more traditional in terms of its design, form and detailing reflecting the design and detailing of other such buildings in the Conservation Area and the existing lodge of Meadowcroft now in separate ownership located to the east. Whilst it is prominently located given the historical precedence and the sympathetic design it is not considered that the building would be out of place in this location. It is considered that the proposal will have an acceptable impact on the character and appearance of the Conservation Area and the listed building. The concerns of English Heritage have largely been addressed but a two storey solution is proposed which is in line with the other gatehouse originally linked to this property.

5.14 Part of the substantial wall forming the northern boundary of the site has a pronounced lean. It is understood that the Engineering Consultancy is currently monitoring it, if the wall is adjudged as dangerous then this will be a matter for the owner to resolve. Listed Building Consent and possibly Planning Permission would be required for alterations to the wall. There is potential for the construction works to affect the wall and it is therefore proposed to condition an agreed programme of works to secure the retention of this wall and the other wall to the rear of the site prior to the commencement of development.

HIGHWAYS

5.15 A number of objections have been received in relation to highway safety. Access to the site will be onto Elwick Road via the existing access of Meadowcroft. Visibility at this access point is compromised by the substantial wall, which surrounds the Meadowcroft site. Additional road marking has recently been undertaken at the junction and highways have raised no objections to the proposal. In highways terms the proposal is considered acceptable.

IMPACT ON THE AMENITY OF NEIGHBOURS

5.16 The application site is located well away from any neighbouring dwellinghouses and the donor property. It is not considered that the proposed house will unduly

affect the amenity of any neighbours in terms of loss of light, privacy outlook or in terms of any overbearing effect.

TREES/WILDLIFE

5.17 The site has recently been cleared of undergrowth and self-seeded saplings it contains no protected trees and it is not considered that the development of the site would raise any significant issues in relation to wildlife conservation.

CONCLUSION

5.18 The erection of a “gatehouse” building in this location is considered acceptable in principle reflecting existing gatehouse developments elsewhere within the Conservation Area. It is considered that the proposal will have an acceptable impact on the character and appearance of the Conservation Area and the listed building and it is recommended for approval.

RECOMMENDATION – APPROVE subject to the following conditions.

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) PH/76982/SS01 Rev A, PH/76982/SP01 Rev B, PH/76982/01 Rev A received at the Local Planning Authority on 9th August 2006, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt.
3. Details of all external finishing materials including external hardstandings/pavings shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
4. Prior to the commencement of development details of all windows and doors including materials, surface treatments/colours and specifications including 1:10 scale drawings and sections shall be submitted to and approved in writing by the Local Planning Authority. The windows and doors shall thereafter be installed in accordance with the approved details.
In the interests of the character and appearance of the building, the listed buildings and the Park Conservation Area.
5. Unless otherwise agreed in writing with the Local Planning Authority rainwater goods shall be cast iron painted black.
In the interests of the character and appearance of the building, the listed building and the Park Conservation Area.
6. 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) or outbuildings other than those expressly authorised by this permission shall be erected without the prior written consent of the Local Planning Authority.

To enable the Local Authority to exercise control in the interests of the character and appearance of the listed building and the Park Conservation Area.

7. 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 or the external appearance altered in any way without the prior written consent of the Local Planning Authority.

To enable the Local Authority to exercise control in the interests of the character and appearance of the listed building and the Park Conservation Area.

8. 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 Authority to exercise control in the interests of the character and appearance of the building, the listed building and the Park Conservation Area.

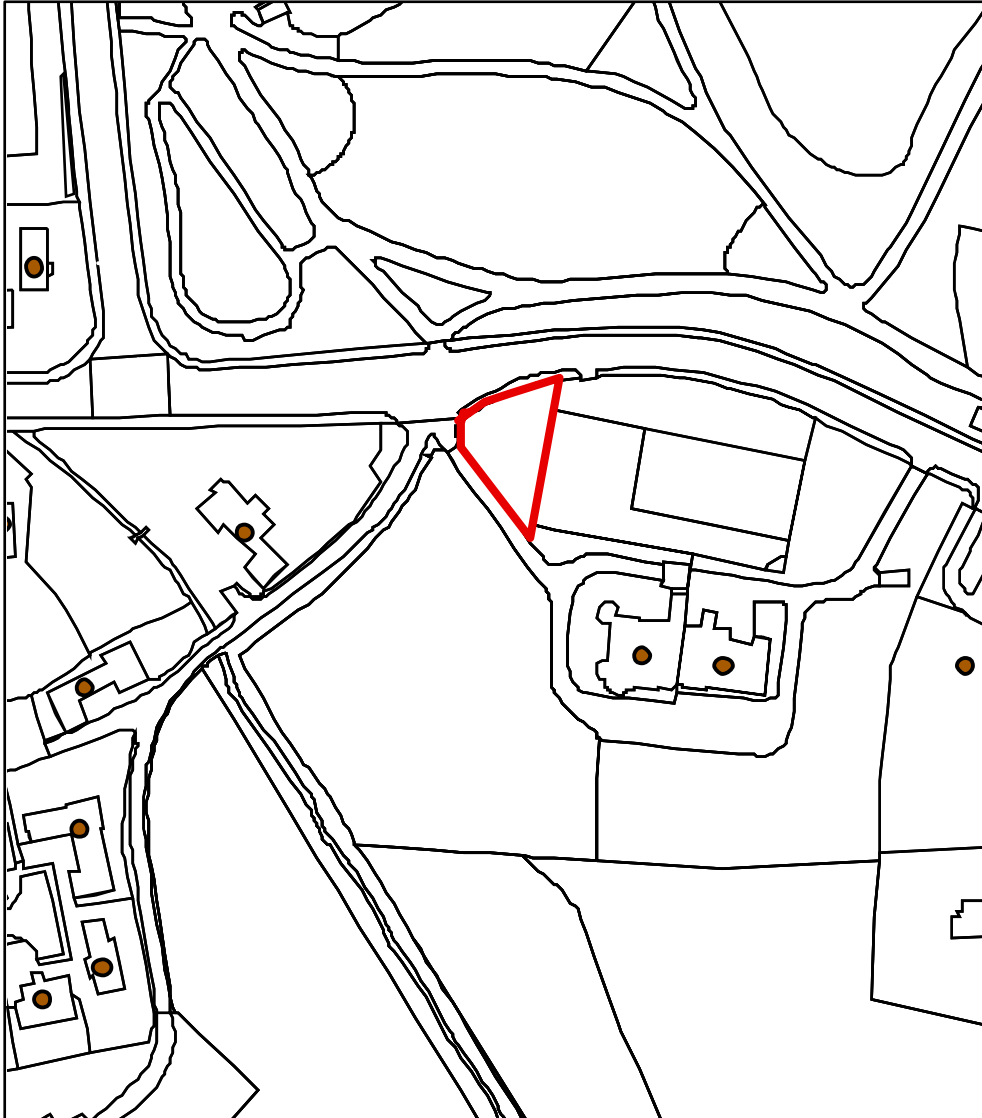
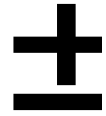
9. For the avoidance of doubt this permission does not grant permission for any alterations to the walls forming the north/north western and eastern/southern boundaries of the site. Prior to the commencement of development a programme of works in relation to the walls to secure their retention shall be submitted to and approved in writing by the Local Planning Authority..

To enable the Local Authority to exercise control in the interests of the character and appearance of the listed building and the Park Conservation Area.

10. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Redamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Redamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.

To ensure that any site contamination is addressed.

Meadowcroft



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 16/8/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2005/6033	REV

No: 6
Number: H/2006/0516
Applicant: Mr Nigel Dawson Keel Row 12 Watermark Gateshead
 NE11 9SZ
Agent: Mackellar Architecture Limited 77-87 West Road
 Newcastle Upon Tyne NE15 6RB
Date valid: 06/07/2006
Development: Erection of a 3 storey, 80 bedroom care home with car
 parking
Location: Land at corner of Warren Road and Easington Road
 Hartlepool

Background

6.1 This application was considered at the Planning Committee of 30th August 2006 when it was deferred for a site visit which will take place before the meeting.

The application and site

6.2 Full planning permission is sought for the erection of a 3 storey, 80 bedroom care home with car parking. The application site is located at the junction of Warren Road and Easington Road on part of the University Hospital of Hartlepool complex. It is currently occupied by a staff parking area. It is understood however that the site is now in the ownership of the applicant. It is enclosed on the two public sides by a Hawthorn hedge but open to the sides facing the hospital.

6.3 To the north is Warren Road on the other side of which are a modern block of flats rising to three storeys, which are on the site of the former Queens Public House, and a pair of residential properties. To the east is a grassed area and the hospital boiler plant. To the south is the hospital spine road beyond which are hospital buildings. To the west is Easington Road.

6.4 The proposed building will be largely located towards the southern part of the site with a wing extending northwards at the Easington Road end. Access will be taken from Warren Road with car parking provided on this side. Areas to the south and west will serve as amenity space. The hedge on the west boundary will be retained on the northern boundary it will be partially removed to allow for the visibility splay at the access.

6.5 The applicant advises that "the proposed Care Home will provide a place of residence for people who require constant medical care. In this instance all of the residents will be of fifty years and above in age but they will fall into two classes, namely those who require personal care only (residential care) and those who require both personal care with interventions and monitoring from a registered nurse (nursing care). It is envisaged that the home will provide predominantly residential care including those with mental health problems associated with old age. The

home is staffed 24 hours per day, 7 days a week. The residents of the home are likely to come from the community and the majority will be funded by the Local Authority”.

Publicity

6.6 The application has been advertised by neighbour notification (13), site notice and by press advert. The time period for representations has expired. Four representations were received including three letters of objection. The objectors raise the following issues:

1. Three storeys is too high.
2. Loss of light.
3. Noise
4. Extra traffic will create highway/traffic problems on already busy roads.

6.7 One letter of no objection has been received from the Hospital Capital Planning Manager. The letter explains that as staff parking demands are likely to reduce due to various relocations of services. The trust will however monitor the level of usage of onsite parking and will undertake to construct additional spaces if it becomes necessary.

Copy letters C

Consultations

6.8 The following consultation replies have been received:

Head of Public Protection & Housing: No objections.

Hartlepool Access Group: Request applicant to provide an access statement, which relates to the access into the property, the horizontal and vertical circulation for wheelchair users, disabled/unisex toilets, the height of reception counter and lighting etc. should be in accordance with BS 8300:2001 and part M of the building regulations.

Traffic & Transportation: No objections to the proposed development at this location. It is my opinion that changes with some staff relocating to North Tees mean that overall demand for staff car parking will reduce and the loss of 58 spaces will not have major implications. Also the staff parking is separate from public parking so there would be no loss in public parking numbers. Any increase in staff numbers for the hospital and my department would be looking to develop a travel plan with the hospital. The hospital has already started looking at car sharing initiatives and other travel plan issues. The proposed access spacing to the other road junctions meets the Council's Design Guide Specification for junction spacing. On the information provided by the applicant, the parking shown for the proposed development is adequate. It would be very difficult to sustain an objection to the development due to the lack of parking provision.

A Traffic Regulation Order will need to be extended on the southern side of Warren Road to prevent parking outside the development at the expense of the applicant. This should be part of the conditions if the permission is granted for the development.

Engineers: Standard contaminated land condition should be attached to any approval.

Northumbrian Water: The public sewer and the pumping station to which flows from the proposed development will discharge are at full capacity and cannot accept the surface water discharges. The surface water should discharge to the culvert which is located in the land to the west of the development site, as previously agreed.

Environment Agency: The Environment Agency has requested that the finished floor levels are at 15.825m AOD and has objected to the current proposal on flood risk grounds as proposed floor levels are below this.

Planning Policy

6.9 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.

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

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

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

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

Hsg12: States that proposals for residential institutions will be approved subject to considerations of amenity, accessibility to public transport, shopping and other community facilities and appropriate provision of parking and amenity space.

Tra15: States that new access points or intensification of existing accesses will not be approved along this road. The policy also states that the Borough Council will consult the Highways Agency on proposals likely to generate a material increase in traffic on the A19 Trunk Road.

Planning Considerations

6.10 The main issues are considered to be policy, design/impact on the street scene, impact on the amenity of nearby residential properties, highways, drainage flooding and access for all.

Policy

6.11 The site was formerly part of the hospital complex. It is considered that the proposed care home use is acceptable in principle in this location and compatible with the existing hospital use and the residential uses on the other side of Warren Road.

Design/impact on the street scene

6.12 The building is three storey however the flats on the opposite side of Warren Road extend to three storeys as do buildings elsewhere within the hospital complex. The design and appearance of the proposed building is considered acceptable in this location. It is considered that the building will have an acceptable impact on the street scene.

Impact on the amenity of nearby properties

6.13 A number of objections have been received in relation to the proposal from the occupiers of residential properties on the other side of Warren Road. In particular concerns have been raised in relation to the height of the development, loss of light and noise.

6.14 The building will extend to three storeys. It will be some 8m to the eaves and some 12m to the ridge. Sections showing the relationship of the site to the adjacent development show the building set down on the site to a level comparable with the adjacent development. The closest residential properties will be the flats which at the closest point will face a gable of the northern projection some 17.7m distant. In terms of the main elevation of the building, facing onto Warren Road, the closest flats will be some 29.8m away whilst the closest dwellinghouses will be some 31.7m away. To the south the closest of the hospital buildings will be some 25m away

from the main rear face of the building. The applicant has agreed to a condition which will require the windows in the north elevation of the northern projection to be obscure glazed. Given this proposed condition, the separation distances and the proposed levels it is not considered that the development will unduly affect the amenity of the occupiers of the neighbouring properties in terms of loss of privacy, light, outlook or in terms of any overbearing effect.

6.15 An objection has been made in relation to noise from the development. The property is a care home and it is not considered that it will generate undue noise and disturbance to the detriment of the occupiers of nearby residential properties. The Head of Public Protection has raised no objection to the proposals.

Highways

6.16 Objections have been received raising concerns that the development will create highway/traffic problems on an already busy road. Highways have not objected to the proposal they did however initially express concerns in relation to the loss of hospital parking. The Hospital Capital Manager has advised that as staff parking demands are likely to reduce it is not intended to replace the staff parking at this time. He states that the trust will however monitor the level of usage and will construct additional spaces if it becomes necessary. The parking lost is staff parking and not public parking. Discussions have taken between Traffic & Transportation and they are satisfied that given proposals for staff relocation the overall demand to staff parking will reduce and the loss of 58 spaces, will not have any major implication. The hospital is already looking into car sharing initiatives and other travel plan issues. In highways terms the proposal is considered to be acceptable. Highways have requested that a Traffic Regulation Order be extended on the southern side of Warren Road to prevent parking outside the development. This would be at the expense of the applicant and an appropriate condition is proposed.

Drainage

6.17 The public sewer and pumping station are at capacity and surface water flows from the development cannot be accepted. Originally it was intended to discharge surface water to the culvert located to the west of the site on the other side of Easington Road. This is acceptable in principle. However it appears connection to the sewer will require the applicant to cross the land of a third party and so to obtain their consent. The applicant has now indicated that soakaways are proposed but has not provided detailed proposal, at this stage. It is considered appropriate therefore to impose a Grampian style condition requiring that no development commence until the proposed means of surface water disposal has been agreed.

Flooding

6.18 The site lies within a Flood Risk Zone. The Environment Agency flood maps indicate that the site is at risk from Fluvial flooding. They have requested therefore that the finished floor level of the development should be 15.825m AOD. This is far in excess of the finished floor level proposed 13.5m which is in line with the floor levels of existing development in the vicinity. The matter has been discussed with

the Engineering Consultancy who have strongly questioned the accuracy of the Agency Flood Maps in this particular case. The Agency has responded that the care home falls within flood zone 3 where developments which are considered highly vulnerable such as care home should not be permitted. They advise that the 15.825m level is based on the best knowledge available as far as they are concerned. They acknowledge however that the flood maps show a degree of inconsistency in this area and that the proposed realignment of the watercourse at Middle Warren will alleviate the flood risk to some degree. They acknowledge that it is possible that the flood map may not accurately represent flood risk in the area. The flood maps are due for review in November. In the meantime they have suggested that the applicant should submit a detailed flood risk assessment which might be able to overcome their concerns. The applicant has been requested to submit a detailed flood risk assessment and this is awaited.

Access for all

6.19 Level access is available to the building.

RECOMMENDATION : APPROVE subject to the satisfactory resolution of the issues in relation to flooding and subject to the following conditions and any other conditions arising from the outstanding issue:

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby permitted shall be carried out in accordance with the plans and details received on 16th August 2006, for the avoidance of doubt the approved section is the one showing the ground floor level of the building to be 13.500, unless otherwise agreed in writing with the Local Planning Authority.
3. The premises shall be used for Care Home and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.
In the interests of the amenities of the occupants of neighbouring properties.
4. The proposed windows in the north elevation of the northern projection of the building shall be glazed with obscure glass which shall be installed before the care home is occupied and shall thereafter be retained at all times while the windows exist.
To prevent overlooking
5. The area(s) indicated for car parking on the plans hereby approved shall be provided before the use of the site commences and thereafter be kept available for such use at all times during the lifetime of the development.
In the interests of the amenities of the occupants of neighbouring properties and highway safety.

6. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
7. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.
8. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.
In the interests of visual amenity.
9. 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.
10. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.
To ensure that any site contamination is addressed.
11. The development hereby permitted shall not be brought into use until a "prohibition of waiting order" has been implemented on the southern side of

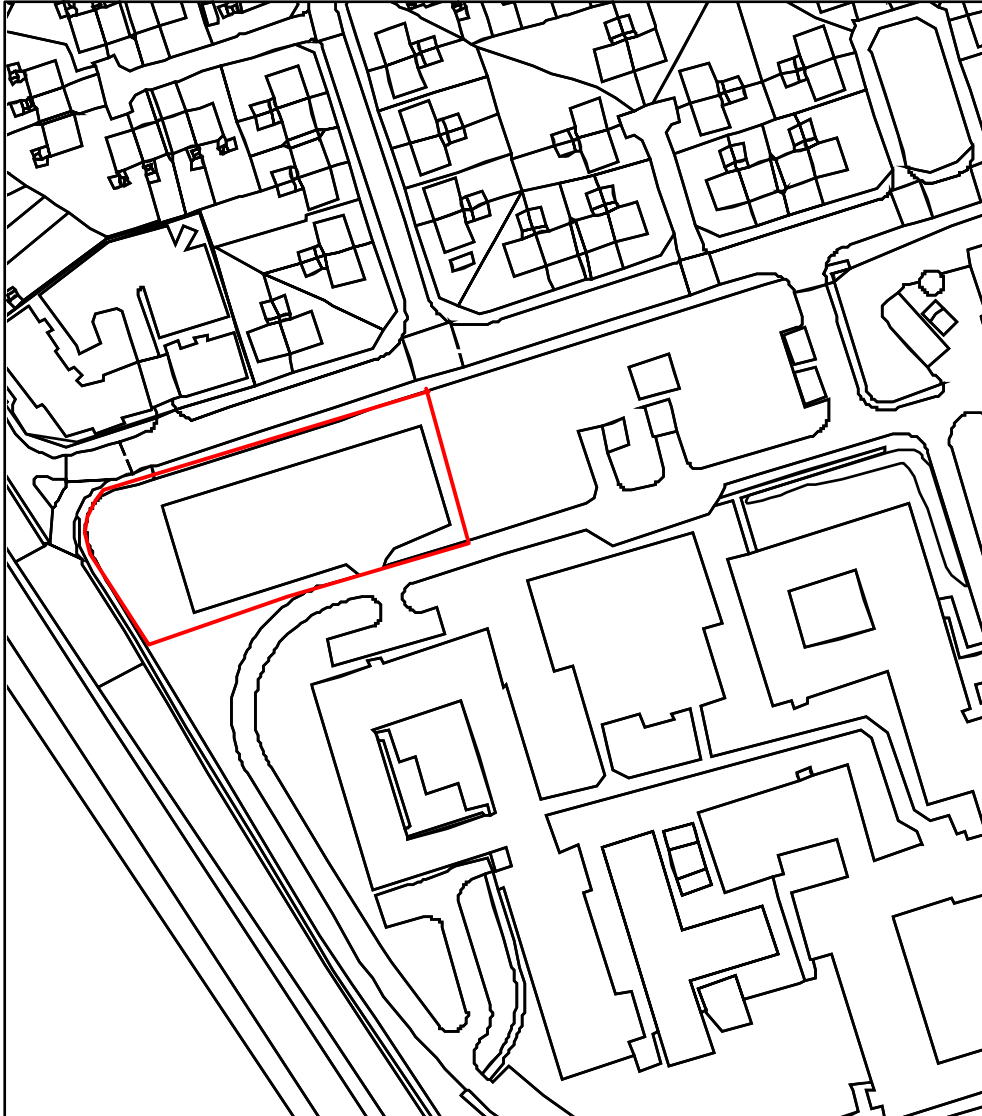
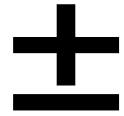
Warren Road in accordance with details first submitted to and approved in writing by the Local Planning Authority.

In the interests of highway safety.

12. No development shall commence until details for the disposal of surface water arising from the site have been submitted to and agreed in writing with the Local Planning Authority. Therefore the development shall be carried out in accordance with the approved details.

In order to ensure that a satisfactory means for the disposal of surface water is agreed and secured.

Warren Road/Easington Road



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 16/8/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2006/0516	REV

No: 7
Number: H/2006/0572
Applicant: Mrs J Deville Eldon Grove School Eldon Grove Hartlepool TS26 9LY
Agent: Hartlepool Borough Council Leadbitter Buildings Stockton Street Hartlepool TS24 7NU
Date valid: 25/07/2006
Development: Alterations and extension to classrooms
Location: ELDON GROVE PRIMARY SCHOOL ELDON GROVE HARTLEPOOL HARTLEPOOL

The Application and Site

7.1 The application site constitutes the buildings and associated grounds of Eldon Grove Primary School which is located on the corner of Eldon Grove and Elwick Road.

7.2 The application proposal seeks to provide alterations and classroom extensions to the northern and eastern elevations of the existing school building.

Publicity

7.3 The application has been advertised by way of neighbour letters (27) and a site notice. To date, there have been 3 letters of no objections and a further 6 letters of objection.

7.4 The concerns raised are:

- i. Loss of light and view;
- ii. Security;
- iii. Car Parking

7.5 Amended plans have recently been received and immediate neighbours on Eldon Grove have been advised and asked to comment in time for the meeting.

Copy letters F

Consultations

7.6 The following consultation replies have been received:

Head of Public Protection and Housing – No objection

Northumbrian Water – No objection

Head of Traffic & Transportation – Eldon Grove has no loading restrictions outside the school. There are existing parking problems with parking congestion in Eldon Grove. The school has its own off-street service area for deliveries and refuse collection. The applicant is proposing to remove this servicing area with the proposed extension. The school will receive its deliveries and refuse collected from the highway. This would be unacceptable due to the width of Eldon Grove and would add to the existing parking congestion. The refuse and delivery vehicles would block the free flow of traffic in Eldon Grove when collecting or delivering to the school and add more congestion to the existing problems.

Planning Policy

7.7 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.

7.8 There are no planning policy objections.

Planning Considerations

7.9 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan, security, car parking and highway safety.

7.10 The proposed development seeks to provide 5 additional classrooms to the northern elevation of the school building and also seeks to extend two existing classrooms and a studio to the eastern elevation of the school building. The proposed alterations and extensions are considered to be of a scale and design which complement the existing school buildings.

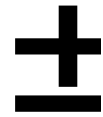
7.11 A number of residents of Belmont Gardens have raised concerns in terms of security as a result of the proposed development. The application proposal seeks to provide a flat roofed extension to the eastern elevation of the building which will take

the school buildings in closer proximity to the rear boundaries of properties along Belmont Gardens. However, the proposed extension will be set away approximately 4 metres from the rear boundaries and it is therefore considered that it will be very difficult for intruders to gain access to the rear garden areas of the properties along Belmont Gardens via the proposed extensions.

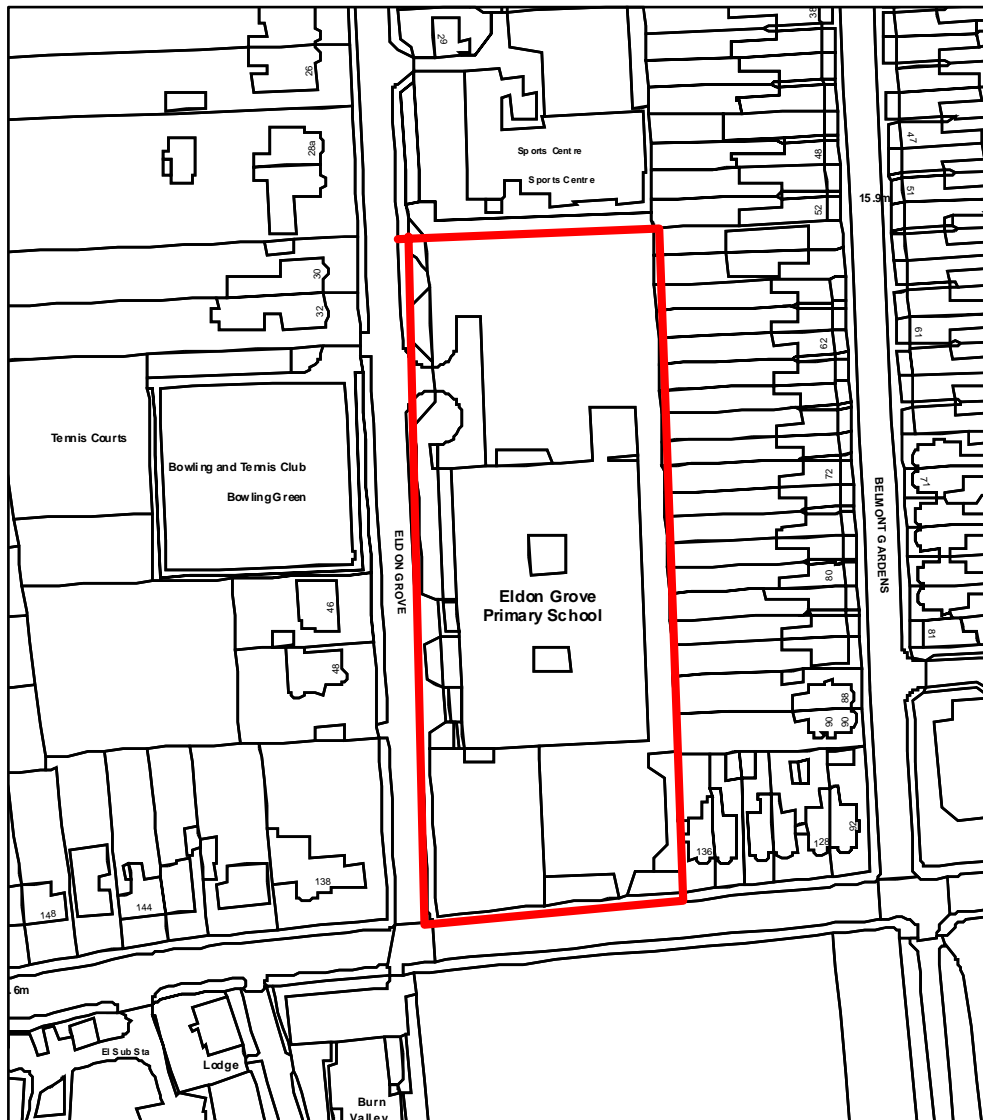
7.12 The proposal, as originally submitted, sought to remove the existing off-street service area and, as a result, the school would have needed to receive deliveries and have refuse collected from the highway. Eldon Grove currently experiences significant problems due to parking congestion and consequently there is a no-loading restriction in force outside the school. It was considered that the proposal, as originally submitted, would have exacerbated existing parking problems. Amended plans have therefore been submitted which provide an off street servicing area within the school grounds. This involves moving the access into the site northwards. A formal response has not yet been received from the Council's Traffic & Transportation Section in relation to the amended plans.

7.13 A formal recommendation will be provided once the issue of highway safety has been fully addressed within an Update Report to be presented to Committee.

RECOMMENDATION – UPDATE TO FOLLOW



Eldon Grove Primary School



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 14/9/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2006/0572	REV

No: 8
Number: H/2006/0541
Applicant: Mr. Alfred Amerigo 116 Elwick Road Hartlepool TS26 9BH
Agent: Derek Stephens Associates Darfield House 17 Lowthian Road, Hartlepool TS24 8BH
Date valid: 17/07/2006
Development: Erection of a pair of semi-detached houses with integral garages
Location: 116 ELWICK ROAD, HARTLEPOOL

The Application and Site

8.1 The application site forms the curtilage area of 116 Elwick Road and is currently occupied by a number of commercial buildings of varying heights, which were previously used in association with the ice cream business that operated from the site.

8.2 The surrounding area is predominantly residential in nature and is characterised by large semi-detached and terraced properties set within good-sized plots. The existing buildings which occupy the application site are in a poor state of repair and, as such, detract from the residential character of the surrounding area.

8.3 The application proposal seeks to provide a pair of semi-detached dwellings with integral garages. The proposed dwellings are of a simple, modern design and will provide 3 bedrooms, a bathroom, lounge, kitchen / dining room and a W.C. Each dwelling is also served by 2 car parking spaces. Private amenity space is also provided to the front and rear of the properties.

Publicity

8.4 The application has been advertised by way of neighbour letters (9) and a site notice. To date, there have been 3 letters of objection.

8.5 The concerns raised are:

- i. Security;
- ii. Overlooking;
- iii. Noise & Disturbance;
- iv. Highway Safety;
- v. Neighbours to be informed of start date of demolition.

The period for publicity has expired.

Copy letters G

Consultations

8.6 The following consultation replies have been received:

Head of Public Protection & Housing – No objection

Head of Traffic & Transportation – The applicant has shown each dwelling with 2 car parking spaces, which is acceptable. There are no major highways implications with this application.

Northumbrian Water – New discharges of foul and surface water must be on a separate system; surface water discharges must be prevented from entering public surface water or combined sewers; all connections to public sewers must be carried out by Northumbrian Water.

Planning Policy

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

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

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

GEP6: States that developers should seek to incorporate energy efficiency principles through siting, form, orientation and layout of buildings as well as through surface drainage and the use of landscaping.

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

Hsg9: Sets out the considerations for assessing residential development including design and effect on new and existing development, the provision of private amenity space, casual and formal play and safe and accessible open space, the retention of trees and other features of interest, provision of pedestrian and cycle routes and

accessibility to public transport. The policy also provides general guidelines on densities.

Relevant Planning History

8.8 An application for the demolition of commercial buildings and the erection of a two-storey residential development incorporating 4 apartments was refused by Hartlepool Borough Council on 20th April 2006 (Ref. H/2006/0152) for the following reasons:

- i. In the opinion of the Local Planning Authority the proposed development would be detrimental to the amenities of local residents by virtue of overlooking contrary to Policies GEP1 and Hsg12(A) of the Hartlepool Local Plan 2006 (policy numbering subject to possible amendment).
- ii. In the opinion of the Local Planning Authority the proposed would result in a form of development which provides inadequate levels of private amenity space contrary to Policy Hsg12(A) of the Hartlepool Local Plan 2006 (policy numbering subject to possible amendment).

Planning Considerations

8.9 The main planning considerations to consider in this instance are the appropriateness of the proposed development in terms of the policies and proposals contained within the adopted Hartlepool Local Plan, the impact of the development on the neighbouring properties and highway safety.

8.10 The application site constitutes previously developed land within the main urban area. Planning Policy Guidance Note 3 'Housing' (March 2000) sets out the Government's commitment to maximising the amount of previously developed land and the conversion of non-residential buildings for housing, in order both to promote regeneration and minimise the amount of greenfield land being taken up for development. PPG3 also seeks to concentrate most additional housing development within urban areas. Paragraph 42(a) of PPG3 suggests that Local Planning Authorities should consider favourably applications for housing on redundant land or buildings in industrial or commercial use, but which are no longer required for that use. The principle of residential development in this location is therefore considered acceptable in terms of guidance contained within PPG3 and Policy Hsg5 of the Hartlepool Local Plan 2006.

8.11 Local residents have raised concerns in relation to overlooking as a result of the proposed development. The key relationships to address in terms of any potential overlooking are those between the proposed properties and the rears of 83 & 85 Arncliffe Gardens and 88 & 90 Wansbeck Gardens.

8.12 The rear elevations of 85 & 87 Arncliffe Gardens contain large bay windows at first floor level which currently serve bedrooms. The proposed development will maintain a separation distance of 15 metres between the first floor bedroom windows of the application properties and the rear elevations of the existing properties along

Arncliffe Gardens. Although the level of separation is less than would normally be required, the proposed windows at first floor level are relatively small and the applicant has also agreed to provide a line of *Sorbus Commixta* (a type of mountain ash) along the western boundary of the site to interrupt views between the existing and proposed windows and a birch tree in each of the front gardens. These would be 4m –5m in height when planted. It is not therefore considered that the application proposal will give rise to significant instances of overlooking in these circumstances.

8.13 The application proposal will also maintain a separation distance of approximately 16 metres between the rear elevations of the proposed properties and the existing properties on Wansbeck Gardens. There are a number of existing out buildings along the shared boundary of the site, including a two-storey out building to the rear of 88 Wansbeck Gardens. There are no primary windows contained within the rear elevation of 90 Wansbeck Gardens and the separation distance of 16 metres between this property and the proposed dwellings is sufficient to ensure that there will be no significant impact in terms of overlooking as a result of the proposed development. The existing two-storey outbuilding along the shared boundary of the site will also restrict views between the application properties and 88 Wansbeck Gardens. It is therefore considered that the proposed development will not have a significant impact on any of the neighbouring properties in terms of overlooking.

8.14 In terms of noise and disturbance, the application proposal seeks to provide a total of two dwellings. The application proposal is therefore relatively small in scale and is unlikely to generate significant levels of noise and disturbance, particularly when compared to the previous commercial use which operated from the site.

8.15 The level of car parking associated with dwellings is considered appropriate in this location. In terms of highway safety, it is considered that the level of vehicular movements associated with the proposed use will be less than those of the previous commercial use and as such, there are no major highways implications with this proposal.

8.16 The application proposal seeks to provide a rear garden area with a depth of 5 metres. Additional private amenity space has also been incorporated to the front of the properties. The level of private amenity space is less than would normally be accepted, however, the application proposal will result in the removal of the existing unsightly commercial buildings from the site to the benefit of the character and appearance of the surrounding area. The proposed level of private amenity space is considered to be the most that could realistically be provided on this particular site and the proposed level of private amenity space is therefore considered acceptable in these circumstances.

8.17 A number of local residents have raised concerns in relation to security. However, the applicant has provided electronic access gates to serve the proposed development and 2 metre high boundary fencing will be provided along the boundaries of the site. The provision of 2 residential properties will also improve the natural surveillance of the site. It is not therefore considered that the proposed development will give rise to any issues of security.

8.18 In conclusion, the application proposal constitutes the small-scale residential development of a previously developed site within the main urban area of Hartlepool.

8.19 The proposal will have significant benefits in terms of the character and appearance of the surrounding area as it will result in the removal of the large, unsightly commercial outbuildings which currently occupy the site. It is a less intensive form of development than that previously refused. Although the proposal does not meet required standards in relation to separation distances and levels of private amenity space, it is considered that the resultant benefits on the character and appearance of the surrounding area should outweigh these concerns.

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

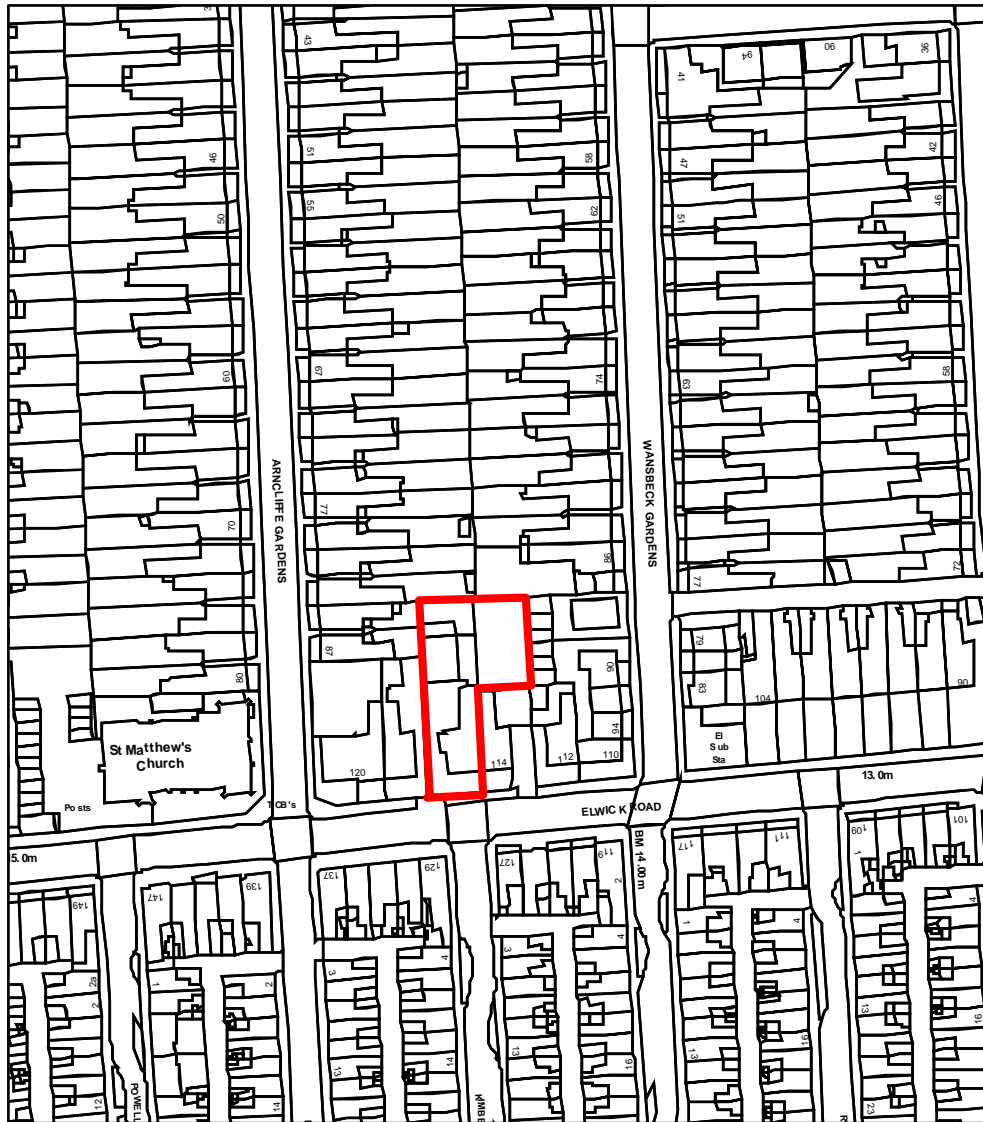
RECOMMENDATION – APPROVE subject to the following conditions

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) M4040/2B received on 31st August 2006, unless otherwise agreed in writing by the Local Planning Authority
For the avoidance of doubt
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), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
5. The access gate(s) hereby approved shall open into the application site only and not out over the highway.
In the interests of highway safety.
6. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through

risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority. To ensure that any site contamination is addressed.

7. 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.
8. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.

116 Elwick Road



Copyright Reserved Licence LA09057L

THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 14/9/06
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2006/0541	REV

No: 1
Number: H/2006/0334
Applicant: Baker Hughes Tekchem Works Tofts Farm Industrial Estate West Hartlepool TS25 2BQ
Agent: Tekchem Works Tofts Farm Industrial Estate West Hartlepool TS25 2BQ
Date valid: 02/05/2006
Development: Application for hazardous substance consent to increase the quantity of 5 hazardous substances stored including propylene oxide and acrolein (Amended scheme to increase the proposed amount of acrolein from 30 to 40 tonnes)
Location: BAKER PETROLITE TOFTS FARM INDUSTRIAL ESTATE WEST BRENDA ROAD HARTLEPOOL HARTLEPOOL

Update :-

The Health and Safety Executive (Hazardous Installations Directorate) have indicated that it is likely the consultation zones associated with the site will increase slightly should this application be approved. The Directorate have anticipated that the maximum increase to the outer zone boundary will be less than 100m (with somewhat smaller increases to the inner and middle zone boundaries). Further clarification is being sought to the exact extent of the increase, it is expected that this information will be made available to Members at the Committee.

For clarification, the comments of the HSE (Nuclear Safety Directorate) are awaited.

RECOMENDATION: - it is recommended that, subject to no objection from the Nuclear Safety Directorate, the decision be delegated to the Development Control Manager for approval, 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.

REASON:- To clarify the period for which the permission is valid.

2. The drums and cylinders used for storage of the Hazardous Substances to which this permission relates shall only be stored outside.

REASON:- In the interests of safety.

3. The Hazardous Substances shall not be kept or used other than in accordance with the application particulars provided in Form 1 and accompanying papers, nor outside the areas marked for storage of the substances on the plan which formed part of the application.

REASON:- In the interests of safety.

4. The storage of Acrolein upon the site must be in pressure containers of 1.1 tonne capacity. The containers must be IMO type 1 tanks rated at 150 psig unless otherwise agreed in writing by the Local Planning Authority.

REASON:- In the interests of safety.

No: 4
Number: H/2005/5921
Applicant: Chase Property Dev Limited C/O Agent
Agent: Savills Fountain Court 68 Fountain Street Manchester M2 2FE
Date valid: 04/11/2005
Development: Alterations to existing units, erection of additional units and associated infrastructure and landscape works
Location: Teesbay Retail Park Brenda Road Hartlepool

Update report

Proposed cycleway

The applicant has confirmed that he is agreeable to enter into a planning agreement to secure the provision of a cycleway link between Brenda Road (adjacent to the Teesbay site) and the Longhill Industrial Estate. The cost of this scheme has been estimated and remains under consideration by the applicant.

Minimum Unit size

As a safeguard against any risk of town centre retailers being drawn to the Teesbay development, Drivers Jonas have advised that a condition should be imposed restricting the minimum unit size to 929 square metres. This would mean that some of the smaller units proposed within the scheme could not be developed in the form shown on the plan which will in turn have a bearing on the final siting of the units. The applicant has therefore requested that the issue of siting of units be left as a reserved matter for later consideration.

Recommend - Approval subject to the following conditions, to a planning agreement to secure retail employment opportunities for local people, a travel plan aimed at reducing reliance on access to the site by car and the provision of finance to secure a cycleway link to the site and to a decision by the Secretary of State not to call in the application.

1. Application for the approval of the reserved matters referred to below must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates: (a) the expiration of five years from the date of this permission; or (b) the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
To clarify the period for which the permission is valid.
2. Before the development is brought into use the approved car parking scheme shall be provided in accordance with the approved details.

Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.

In the interests of highway safety.

3. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.

In the interests of visual amenity.

4. The total new retail warehouse floorspace hereby permitted shall not exceed 6,480 sq m gross

In the interests of protecting the viability of the town centre

5. The retail warehouse development hereby permitted shall not be provided in nor subdivided into units of less than 929 sq m gross unless otherwise agreed in writing by the Local Authority

To protect the viability of the town centre

6. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (Or any Order revoking and re-enacting that Order with or without modification) the proposed retail warehouse units shall not be used for the sale of:

- i) food and drink;
- ii) clothing or shoes (including sports clothing);
- iii) books and stationery;
- iv) CDs and other recorded audio-visual material;
- v) toys and children's goods;
- vi) jewellery, clocks and watches;
- vii) sports equipment and accessories;
- viii) china and glassware;
- ix) musical instruments;
- x) medical, chemist and opticians' goods; and,
- xi) pet products.

To protect the viability of the town centre

7. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Redamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been

considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.

To ensure that any site contamination is addressed.

- 8 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 LPA. Roof water shall not pass through the interceptor.

To prevent pollution of the water environment.

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

To prevent pollution of the water environment.

10. Prior to the development hereby approved being brought into operation cycle parking shall be provided to serve the site in accordance with details to be previously agreed in writing with the Local Planning Authority.

To encourage non-car access to the site.

11. Approval of the details of the layout, siting, scale and appearance of the building(s), and the landscaping of the site including the location and form of any related structures and engineering operations (hereinafter called the "reserved matters") shall be obtained in writing from the Local Planning Authority.

To ensure the site is developed in a satisfactory manner.

No: 7
Number: H/2006/0572
Applicant: Mrs J Deville Eldon Grove School Eldon Grove Hartlepool TS26 9LY
Agent: Hartlepool Borough Council Leadbitter Buildings Stockton Street Hartlepool TS24 7NU
Date valid: 25/07/2006
Development: Alterations and extension to classrooms
Location: ELDON GROVE PRIMARY SCHOOL ELDON GROVE HARTLEPOOL HARTLEPOOL

UPDATE

Introduction

1 This Update Report relates to Item 7 of the Committee Agenda and provides final consideration of any issues that were not considered within the Committee Report. This Report will also provide details of any further consultation responses received.

Publicity

2 Amended plans have recently been received and immediate neighbours on Eldon Grove have been asked to comment in time for the meeting. To date one letter of no objection has been received. Details of any further publicity responses will be reported to the Committee.

Consultations

3 The following consultation replies have been received in relation to the amended plans:

Head of Traffic and Transportation – I refer to the amended plan. I have no objection to the proposed relocation of the service area. The construction of the proposed access should be an industrial crossing and the existing access should revert back to a footpath at the expense of the applicant. This must be done before the extension of the school comes into operation.

Planning Considerations

4 The proposal as originally submitted, sought to remove the existing off-street service area and, as a result, the school would have needed to receive deliveries and have refuse collected from the highway. Eldon Grove currently experiences significant problems due to parking congestion and consequently there is a no-loading restriction in force outside the school. It was considered that the proposal, as originally submitted, would have exacerbated existing parking problems. Amended plans have therefore been submitted which provide an off-street servicing area within the grounds of the school. This

involves repositioning the access approximately 9 metres to the north. It is considered that these measures will ensure that the proposed development will not contribute to the existing car parking problems on Eldon Grove and, as such, it is not considered that there will be any major highways implications as a result of the proposed development.

5 For the reasons set out above and within the Committee Report, the application is recommended for approval

RECOMMENDATION – APPROVE (subject to conditions) and to no adverse comments as a result of the publicity exercise

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) 707/23/091 received on 12th September 2006, unless otherwise agreed in writing by the Local Planning Authority
For the avoidance of doubt
4. Details of the proposed access to the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The existing access shall also be blocked up and reverted to a footpath to the satisfaction of the Local Planning Authority.
In the interests of highway safety

Report of: Head of Planning and Economic Development

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

- 1.1 During this four (4) week period, forty nine (49) planning applications have been registered as commencing and checked. Forty seven (47) required site visits resulting in various planning conditions being discharged by letter.

2. BACKGROUND

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

1. A neighbour complaint about the erection of a dormer window at a house on The Oval has been investigated and was determined as permitted development. Developments will be reported to a future meeting if necessary.
2. A neighbour complaint about the garaging of a limo, at the rear of a commercial area on Sheriff Street is being investigated. Developments will be reported to a future meeting if necessary.
3. Two cases of replacing windows with UPVC, within conservation areas on Grange Road and The Front Seaton Carew are being investigated and developments will be reported to a future meeting if necessary.
4. A complaint about the replacement of an existing roof, with slate affect tiles, a house on Hutton Avenue is being investigated. Developments will be reported to a future meeting if necessary.
5. A complaint about the siting of storage containers on Victoria Road has been investigated. Due to the structures being temporary and related to development at the site they were classed as permitted development.
6. A neighbour complaint about the re-planting of trees at a house on The Grove has been investigated, it was concluded that no breach of planning control has occurred.
7. A number of neighbour complaints about requirement for the planting of a hedge within the boundary of a number of homes on the Inglefield estate is being investigated. This was a condition attached to the planning approval. Developments will be reported to a future meeting if necessary.

8. A neighbour complaint about the erection of alley gates situated near to Mounston Close is being investigated. Developments will be reported to a future meeting if necessary.
9. An anonymous complaint about the erection of a garage at a house on Challoner Road has been investigated. This benefits from a planning approval to replace the existing garage. Therefore there has been no breach of planning controls in this case.
10. A neighbour complaint about a condition attached to the planning approval for an extension on Campbell Road is being investigated. Developments will be reported to a future meeting if necessary. On site it was noted that the existing porch had been replaced with a new larger porch, which does not benefit from permitted development rights. A planning application is awaited; again any developments will be reported to a future meeting if necessary.
11. An anonymous complaint about the running of a landscape business from a house in Birchill Gardens is being investigated. Developments will be reported to a future meeting if necessary.
12. An anonymous complaint about the parking of commercial vehicles at a house on West View Road is being investigated. Developments will be reported to future meeting if necessary.
13. A neighbour complaint about the erection of a carport at a house in Brandon Close is being investigated. The carport does benefit from planning permission although it is suggested it encroaches on to the complainant's land. Developments will be reported to a future meeting if necessary.

ITEM OF ANY OTHER BUSINESS

Report of: Assistant Director (Planning & Economic Development)

Subject: APPEALS BY MR M.T. WALKER
LAND AT WOODBURN LODGE HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 The appeals had been lodged following the refusal of the Local Planning Authority to grant lawful development certificates for the erection of a detached garage and two gates.
- 1.2 The appeals were dismissed which means that the appellant is required to make planning applications for the proposed developments .
- 1.3 The Inspector found that the proposed garage would involve the removal of fencing in breach of the continuing requirement of an extant enforcement notice. It would also be partly constructed on land clearly outside the curtilage of Woodburn Lodge. For these reasons the proposed garage would require planning permission. He also found that the proposed gates would constitute a means of access rather than a means of enclosure and was satisfied that the Council's decision to refuse the lawful development certificate was well founded.
- 1.4 The appellant had applied for an award of costs against the Local Planning Authority on grounds of alleged unreasonable behaviour. The Inspector refused this application stating that an award of costs was not justified.
- 1.4 The appeal decisions are **attached**.

2. RECOMMENDATION

- 2.1 That the outcome of the appeal be noted.

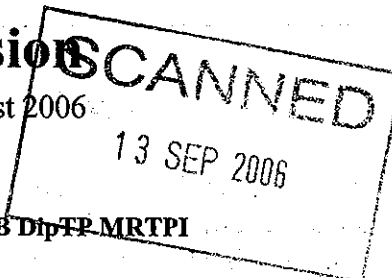


Appeal Decision

Inquiry held on 1st August 2006

by Sean Slack BA LLB DipTP MRTPI

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



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

12 Sep 2006

Appeal Ref: APP/H0724/X/06/2008992

Woodburn Lodge, Blakelock Gardens, Hartlepool, TS25 5QW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is made by Mr M T Walker against Hartlepool Borough Council.
- The application (Ref.H/2005/5964) is dated 6th November 2005.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the erection of a detached garage.

Summary of Decision: The appeal is dismissed

Appeal Ref: APP/H0724/X/06/2009394

Woodburn Lodge, Blakelock Gardens, Hartlepool, TS25 5QW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr M T Walker against the decision of Hartlepool Borough Council.
- The application Ref H/LAW/0006, dated 28th December 2003, was refused by notice dated 14th April 2004.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the erection of 2 gates.

Summary of Decision: The appeal is dismissed

Procedural Matters

1. At the Inquiry an application for costs was made by Mr T M Walker against the Council. This application is the subject of a separate Decision.

Background to the appeals

2. Mr Walker is the owner of Woodburn Lodge, a fairly large modern detached dwelling erected in the 1980's on a rectangular shaped former allotment site located within an established residential area. The original land associated with the dwelling has been altered following the inclusion of part of the front garden to 14 Redcar Close, purchased by the appellant in the late 1990's. This land was acquired in order to gain access across a private driveway leading to Redcar Close.

3. Two decisions are relevant to the current appeals. In October 2001 an appeal by Mr Walker against an enforcement notice was dismissed and the notice upheld. The alleged breach of planning control, as corrected by the Inspector, was the formation of an access between Woodburn Lodge and 14 Redcar Close by demolition of the boundary fence, the construction of 3 brick pillars, the surfacing of land and the installation of pedestrian and vehicular gates. The requirements, as varied, were to remove the access by the replacement of the pedestrian and vehicular gates with close boarded fencing of 1.8 metres height.
4. The Inspector found that the alterations to the boundary by the erection of pillars and gates did not constitute part of a means of enclosure but involved the erection of gates to provide vehicular and pedestrian access. He was also of the view that the installation of gates and the laying of a hardstanding were part of a single operation. As the means of access was not required in connection with permitted development (as required by Part 2 Class B of the Town and Country Planning (General Permitted Development) Order 1995 [GPDO]) his conclusion was that the development was not permitted by Part 2 Class A or Part 1 Class F. of the GPDO.
5. The second appeal decision issued in October 2005 concerned the Council's failure to give notice of a decision on an application for a Certificate of Lawful Use or Development. The proposed development was the erection of a double garage. The appeal succeeded and a certificate was granted. The Inspector stated that there was no dispute between the parties that the proposed garage would be sited with the curtilage of Woodburn Lodge and found that proposed garage did not fall outside the limitations concerning size and height specified in Class E of Part 1 to the GPDO. The Inspector was also satisfied that the garage was required for a purpose incidental to the enjoyment of the dwelling.
6. Reference was also made in that appeal to a long standing dispute concerning means of access to the appellant's land from Redcar Close. It was said that Mr Walker owns the private driveway formerly attached to 14 Redcar Close and claimed that he had an unrestricted right of access over it. This land abuts the boundary with Woodburn Lodge. The Council view was that there was no right to the construction of an access in view of the earlier enforcement notice. The Inspector stated that the issue of rights of access had no bearing on the planning position which was concerned only with the development of land.
7. In March 2006 the Council issued a decision on the application for a detached garage now subject to appeal. The proposed garage incorporates double doors to the front and rear which provide access across land formerly attached to 14 Redcar Close to the public highway. The Council consider that the main purpose of the garage would be to provide a means of access from Redcar Close. It was also said that the implementation of the garage doors would involve the removal of solid panel fencing which was a requirement of the 2001 enforcement notice upheld on appeal. The purported reason for refusal was;

"In the opinion of the Local Planning Authority the development proposed would not qualify as permitted development under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 as it is inextricably related to the need to create a new access to the site from Redcar Close. The creation of such an access is unauthorised and could not be created through any permitted development rights given within the Town and Country Planning (General Permitted Development) Order 1995"

SCANNED

13 SEP 2006

The proposed garage

8. The aim of an appeal under section 192 is to establish formally whether planning permission is required for a proposed development. The matters to be determined are solely those of evidential fact and planning law and the onus of proof is on the appellant to show that the proposed building operation to construct a garage would be lawful if instituted or begun at the date of the application.
9. The carrying out of building operations to erect a detached garage constitutes development as defined in section 55(1) of the 1990 Act (as amended). This requires planning permission. However, there are exceptions in the case of buildings erected within the curtilage of a dwellinghouse. The GPDO in Part 1 Class E permits "the provision, within the curtilage of a dwellinghouse, of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure".
10. The basis of the Council's purported reason for refusal was that the proposed garage is "inextricably related to the need to create a new access to the site from Redcar Close". Town planning concerns the development of land and the intention of a developer is generally not a material consideration in assessing whether planning permission is required. However, in deciding whether a proposal is permitted development under Class E it is necessary that the proposed building is required for a purpose incidental to the enjoyment of the dwellinghouse as a dwelling. The erection of a building primarily designed as a means of access (for example an archway or Lychgate are structures providing means of access) would generally not be considered as a purpose incidental to the enjoyment of the dwellinghouse. A building erected as permitted development in such circumstances could be subject to enforcement action as a breach of planning control.
11. The proposed garage would involve the removal of close boarded timber fencing, the installation of which is a requirement of an extant enforcement notice, upheld on appeal in October 2001. It would appear that the siting of the proposed garage would be in breach of that notice. Section 191(2)(b) of the Act restricts the issue of a certificate of lawfulness under section 191(1) where the development would constitute a contravention of any of the requirements of any enforcement notice in force. Although the current application has been made under Section 192, I also consider the proviso would apply in the circumstances of the current appeal. On this basis alone the appeal should fail.
12. Should my conclusion on the effect of the extant enforcement notice be incorrect the issue is whether the proposed development satisfies the requirements of Class E and would therefore be development permitted by the GPDO.
13. The appellant relies on the Council's reason for rejecting the LDC application. This makes no reference to any of the requirements set out in Class E. It would appear from the Council's evidence that no issue is raised on those matters concerning the height of the building or the ground area covered in relation to other buildings or enclosures. Although no evidence was presented as to whether the proposed building together with other buildings within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage it would appear from the submitted drawing (Area plan 1) that should the proposed garage be erected the limitation would not be exceeded. I note the appellant's assurance that he would not erect 2 double garages should the present appeal

SCANNED

13 SEP 2006

succeed. It would not be possible to restrict the scope of a certificate by a condition restricting the erection of other buildings such as could be imposed on the grant of planning permission.

14. There is no dispute that the eastern elevation of the proposed garage would encroach on land formerly part of the garden to 14 Redcar Close. In order to qualify for permitted development under Class E it is necessary that the proposed building is within the curtilage of Woodburn Lodge. The case of McAlpine v SSE [1994] EGCS 189 provides useful guidelines in defining curtilage for purposes of permitted development. In that case 3 characteristics of a curtilage were listed. These were firstly, that curtilage was constrained to a small area about a building, secondly, there had to be an intimate association with land undoubtedly within the curtilage in order to make the land under consideration part and parcel of the land within the curtilage, and thirdly, while it was not necessary for there to be physical enclosure, the land in question at least needed to be regarded in law as part of one enclosure.
15. Applying these tests, I find the site for the proposed garage cannot be within the curtilage of Woodburn Lodge. The proposed development is on land some considerable distance from the dwelling, having in recent years been part of the driveway or garden to 14 Redcar Close. Other than the appellant's desire for a vehicular access to his land, I find no close association with this land and the dwelling at Woodburn Lodge. The land formerly part of 14 Redcar Close is physically separated from the appellant's other land by a fence and cannot be considered as part of a single enclosure with the dwelling as Woodburn Lodge. Having regard to the existing access and parking arrangements to the dwelling on the frontage to Blakelock Gardens, I am satisfied that this land does not serve the purposes of the house in some necessary or reasonably useful way. For these reasons the garage cannot fall within the curtilage of Woodburn Lodge and would not satisfy the first requirement for permitted development under Part 2 Class E. The proposal would therefore constitute development requiring planning permission.

The proposal for the erection of 2 gates

16. It is claimed that the proposed gates would constitute a means of enclosure to the appellant's land at Woodburn Lodge and would qualify as permitted development either as the provision of an enclosure under Part 1 Class E as development within the curtilage of a dwelling or under Part 2 Class A which permits the erection, construction, maintenance, improvement of a gate, fence, wall or other means of enclosure.
17. The Council maintain that the proposal is in effect for a means of access to Redcar Close across land at No.14 to the public highway. It was said that the effect would be to co-join an area of hardstanding at that property to create a vehicular and pedestrian access. As the means of access is not required in connection with any development permitted in Schedule 2 to the GPDO (other than Class A) it cannot be considered as permitted development.
18. The construction of a vehicular access was the subject of an enforcement notice issued in February 2001. I am satisfied that the issue of whether the creation of such access was permitted development was fully considered in the ground (c) appeal against that notice. The Inspector found that there was nothing to indicate that the ground surfacing works and construction of pillars and gates, as separate acts of operational development, fell outside the terms respectively of Part 1 Class F and Part 2 Class A. He found that the alterations

made to the boundary by the erection of pillars and gates were part of a single operation involving ground surfacing works and the installation of gates to provide vehicular and pedestrian access. This did not amount to the substitution of part of a fence or wall with gates as a means of enclosure as claimed, but involved the erection of gates as a means of access which was not permitted by Part 2 Class A.

19. My own view on the evidence is that there has been no material change in circumstances since the earlier appeal decision in 2001. Leaving aside that there is an effective enforcement notice requiring the removal of the access between Woodburn Lodge and 14 Redcar Close, I consider the appeal proposal to be one element of a composite scheme to create vehicular and pedestrian access from the appeal site to Redcar Close. Such a means of access is restricted under Part 2 Class B. This view is supported in the case of James and Davies v Secretary of State for Wales and Swansea City Council [1998] 76 P & CR which turned on similar facts to the present appeal. In that case it was found that the creation of an access from a hardstanding across a neighbouring garage court and service road which connected to a public highway was not permitted development under Part 2 Class B. This was because the access was not required in connection with use of the hardstanding which in effect became part of the driveway, and the access did not directly connect to the public road. The circumstances in that case appear to address similar issues to the present appeal.

Conclusions

20. My finding is that the proposed garage would involve the removal of fencing in breach of the continuing requirement of an extant enforcement notice. It would also be partly constructed on land clearly outside the curtilage of Woodburn Lodge. For these reasons the proposed garage cannot qualify as permitted development under Part 1 Class E. I am also satisfied that the Council's refusal of the second application on the basis that the proposed gates constitute a means of access and not a means of enclosure is supported by the submitted evidence. Consequently that proposal does not fall within Part 2 Class A as permitted development and the Council's decision to refuse a LDC was well founded.

Formal Decision

21. For the reasons given above, I determine the appeals as follows;

Section 195 Appeal in relation to erection of detached garage: APP/H0724/X/06/2008992
The appeal is dismissed.

Section 195 Appeal in relation to erection of 2 gates APP/H0724/X/06/2009394
The appeal is dismissed.

Sean Slack
Inspector

SCANNED

13 SEP 2006

APPEARANCES

FOR THE APPELLANT:

Mr M T Walker

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Hunter

Of Counsel, instructed by the Solicitor to Hartlepool
Borough Council

He called

Mr R Merrett BSc DipTP

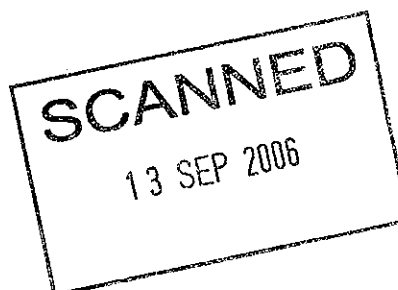
Principal Planning Officer with the Council

DOCUMENTS

- Document 1 Letter of notification of Inquiry
- Document 2 Letter to Mr Walker from Council 14 January 2004 citing cases in relation to definition of curtilage
- Document 3 Extract from Encyclopaedia of Planning Law 3B-2055 What is the curtilage?
- Document 4 Letter and plan submitted by Mr Walker to the Council 1st July 2006 concerning identification of planning unit at Woodburn Lodge.

PLANS

- Plans A1-A2 Area plans showing position of garage (LDC ref X/05/2002074) and proposed gates



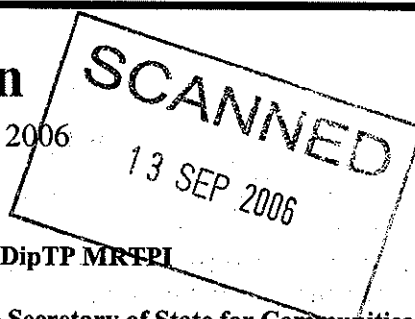


Costs Decision

Inquiry held on 1st August 2006

by Sean Slack BA LLB DipTP MRTPI

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



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

12 Sep 2006

Costs application in relation to Appeals: H0742/X/06/2008992 & 2009394 Land at Woodburn Lodge, Blakelock Gardens, Hartlepool TS25 5QW

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr M T Walker for a full award of costs against Hartlepool Borough Council.
- The inquiry was in connection with appeals against failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC) for a detached garage, and refusal of an application for a certificate of lawful use or development (LDC) for the erection of 2 gates.

Summary of Decision: The application for an award of costs is refused

The Submissions for Mr Walker

1. Annex 3 to Circular 8/93 refers to unreasonable behaviour relating to the substance of the case. In particular paragraph 8 states that reasons for refusal should be complete, precise, specific and relevant to the application. The Council had failed to produce evidence to substantiate their reasons for refusing the applications. They had ignored the appeal decision of October 2005 where a LDC had been granted for the erection of a double garage at Woodburn Lodge. The Council's evidence was inaccurate in failing to correctly identify the curtilage land at 14 Redcar Close which was now part of the planning unit at Woodburn Lodge. They had deliberately misinterpreted planning law in claiming that the proposed gates would not constitute a means of enclosure. This had been accepted by the Inspector in the 2001 appeal. Councillors had been misled in the reporting of the applications to Committee.

The response for Hartlepool Borough Council

2. For an award of costs to be made it was necessary that the appellant demonstrate that he had been put to unnecessary expense in challenging the Council's decisions. The Council did not accept that the proposals were permitted development and had presented substantial evidence at the Inquiry to support the refusal to issue certificates of lawful use. The proposed garage did not lie within the curtilage of the appellant's dwelling. The proposed gates were not considered as a means of enclosure but were designed to enable access to be gained to Redcar Close. Neither of these proposals would qualify as permitted development. They had fully justified their reasons for the decision to refuse the applications, notwithstanding that the decision on the detached garage was issued after an appeal had been lodged against non-determination. The Council had given full consideration to the previous appeal decisions. There was no evidence that the Council had not co-operated fully with the appellant in their consideration of the applications.

Reasons for Decision

3. The application for costs falls to be determined in accordance with the advice contained in Circular 8/93, and all the relevant circumstances of the appeal, irrespective of its outcome. Costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
4. It is unfortunate that much of the background to the appeals has been coloured by the appellant's belief that Council Officers has failed to take account of the Inspector's decision to issue a LDC concerning the erection of a double garage. That proposal was unusual in that the garage, with double doors to front and rear, appeared to have a dual function, as a garage and a covered means of access to land adjacent to 14 Redcar Close and to the public highway. As the proposal involved no physical changes to the land to create a means of access, the Inspector was of the view that the proposal was solely for the construction of a garage. In the circumstances I consider it was not unreasonable for the Council to conclude that the earlier appeal decision did not support the appellant's case.
5. The new proposal involved siting the garage partly outside the original land attached to Woodburn Lodge and removal of a fence in breach of an extant enforcement notice. Although the Council failed to make a decision within the required period, a decision notice was subsequently issued. This helped to clarify matters at issue in the appeal.
6. The Council had provided the appellant with a list of judgements to assist in defining the curtilage land at Woodburn Lodge. There was also no failure to fully support the reason for refusal view that the proposed gates were primarily a means of access and not a means of enclosure as claimed by the appellant.
7. I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has not been demonstrated and I therefore conclude that an award of costs is not justified

Formal Decision

8. For the reasons given above, and in exercise of the powers transferred to me, I refuse the application made by Mr M T Walker for an award of costs.

Sean Slack
Inspector

