

ADDITIONAL MEETING

PLANNING COMMITTEE AGENDA



Monday, 6th November, 2006

at 2.00 pm.

in The Council Chamber

MEMBERS OF PLANNING COMMITTEE:

Councillors Akers-Belcher, D Allison, 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 12th October 2006 (*to follow*)
4. **ITEMS REQUIRING DECISION**

No items
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**
6. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

EXEMPT ITEMS

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

ADDITIONAL MEETING

7. ITEMS REQUIRING DECISION

- 7.1 H/2005/5040/5041 and 5042 – Able UK Ltd TERCC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) and 3 (Option 2) and H/2005/5878 – Able UK Ltd TERCC Facility, Tees Road, Graythorp, Hartlepool – Hazardous Substance Consent to store various hazardous substances – *Assistant Director (Planning and Economic Development) and Chief Solicitor* (para 5)

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

12th October 2006

Present:

Councillor Rob Cook (In the Chair)

Councillors Gordon Henery, Stan Kaiser, John Lauderdale, Carl Richardson, Maureen Waller, Ray Waller and Edna Wright.

Also present The following Councillors were present in accordance with Council Procedure Rule 4.2 (ii): -
John Marshall as substitute for Derek Allison,
Denis Waller as substitute for Shaun Cook,
Sheila Griffin as substitute for Bill Iseley,
Victor Tumilty as substitute for Geoff Lilley,
Pauline Laffey as substitute for Dr George Morris,
Gerard Hall as substitute for Gladys Worthy.

Officers: Stuart Green, Assistant Director (Planning and Economic Development)
Richard Teece, Development Control Manager
Roy Merrett, Principal Planning Officer
Tony Brown, Chief Solicitor
Chris Roberts, Development and Coordination Technician
Sylvia Tempest, Environmental Standards Manager
David Cosgrove, Principal Democratic Services Officer
Denise Wimpenny, Principal Democratic Services Officer

60. Apologies for Absence

Councillors Stephen Akers Belcher, Derek Allison, Shaun Cook, Bill Iseley, Bill Iseley, Geoff Lilley, Dr George Morris, Robbie Payne and Gladys Worthy.

61. Introductory Remarks by the Vice-Chairman

The Vice-Chairman of the Planning Committee, Councillor Rob Cook welcomed all those present to the meeting. Councillor Cook stated that due to ill health, the Chairman of the Committee, Councillor Bill Iseley was unable to attend the meeting and therefore, in accordance with the Council's Constitution, Councillor Cook would chair the meeting.

The Vice-Chair indicated that the applications being considered by the

Committee were very significant and had created a lot of public interest. As quite a number of people had registered their wish to speak in relation to the applications, the normal procedure for public participation in planning matters at this committee had been put aside and a procedure specific to this meeting had been circulated in the meeting room. This procedure would allow both the proposer of the application and representatives of the objectors to have fifteen minutes each in which to put their proposals/concerns to the members of the Planning Committee.

The Vice-Chair also made comments in relation to the press coverage of the meeting and general comments to all present in relation to health and safety.

62. Declarations of interest by members

Councillor Geoff Lilley declared a private and prejudicial interest in the two items listed on the agenda. Councillor Lilley indicated that the Chief Solicitor had advised him that in light of such a declaration he would have to leave the meeting despite having appointed a substitute to the meeting in his place and his wish to remain as a member of the public to observe. Councillor Lilley recorded his protest at, what he saw, as his rights as an elected representative for the Greatham Ward being removed. Councillor Lilley duly left the meeting.

The Chief Solicitor gave advice in respect of the declaration of private and prejudicial interests as set out in the Members Code of Conduct. The Chief Solicitor stated that this applied not only to the members of the Planning Committee, or any appointed substitutes present, but also to any other members of the Council at the meeting. The declaration of a private or private and prejudicial interest was a matter for individual Councillors to determine.

Following the advice of the Chief Solicitor, Councillor Stephen Allison declared a private and prejudicial interest and duly left the meeting.

63. Planning Applications – H/2005/5040/5041 and 5042 – Able UK Ltd TERCC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) and 3 (Option 2) (Assistant Director of Planning and Economic Development)

Representing the Applicants, ABLE UK Ltd: -

Mr Peter Stephenson, Mr Glyn Wheeler, Mr Gary Doubleday and Mr Ian Fenny.

Representing the Objectors: -

Mrs Jean Kennedy, Ms Iris Ryder, Mr Peter Tweddle and Mrs Joan Steele
Statutory Agencies; -

Mr Mike Leakey – Natural England (formerly English Nature),

Mr Mike Quigley – Natural England (formerly English Nature),

Mr Bob Pailor – Environment Agency,

Mr Peter Duffy – Environment Agency.

Presentations to Members

Applicant: Able UK Ltd

The applicant's representatives addressed the Committee with regard to the three planning applications put forward by ABLE UK Ltd for the TERRC Facility at Graythorp. The applications briefly covered the following developments/works: -

The extension of the current use of the site to include the construction, repair, refurbishment and decommissioning of all types of ships, vessels and other craft as described more comprehensively in the Environmental Impact Statement (EIS). Operational development consisting of the construction of quays 1, 6, 10 and 11; the refurbishment of quays 7, 8 and 9; the construction of a cofferdam (3 alternative options); the construction of new dock gates; the installation of railway track; the construction and operation of a metal recycling facility; the erection of industrial buildings for the manufacture of wind turbines; the erection of warehouse buildings; the construction of two holding tanks in connection with the drainage design; the construction of a sump in the dry dock basin; the construction of temporary secondary clay bund in the dock basin; dredging works to be carried out within the dock basin and above the low waterline and engineering works associated with the construction of the mooring bollard and sheet piling structure to protect the British Energy power station foreshore.

The applicant's representative stated that it was very mindful of being located close to several Sites of Special Scientific Interest (SSSI) and a Special Protection Area (SPA) yet being in a largely industrial area. This had been highlighted to those members of the Committee who had undertaken the site visit earlier in the month. The company saw its location near to these sites as a privilege and responsibility rather than a hindrance.

It was indicated that as well as the main application there were alternative options related to the construction of a cofferdam to allow the dry dock to be pumped dry to allow for the decommissioning of ships. There would be control measures to ensure no contaminated water was pumped or escaped into the river. In Seaton Channel itself there would be development of quays 10 and 11 to allow for the exportation of reclaimed metal and the transportation of wind turbines from the construction facility. The site when fully operational for both decommissioning of ships and the construction of wind turbines would employ an estimated 749 people.

The applicant's representative stated that the environmental impact of the development of the Graythorp site had been researched and assessed for three years prior to the submission of documentation to the Council in January and April this year. Leading experts and companies had been utilised to produce the EIS. It was indicated that the measures to prevent any

harmful effects were set out in the table in section 4 of the submitted report of the Assistant Director (Planning and Economic Development) and many of these were already part of the company's current operation. The applicant's representative acknowledged that there would be a short-term impact with the loss of 0.56 hectares of SSSI to allow the development of the quay; this would be mitigated to neutral through a S.106 agreement requiring appropriate compensating provision. Overall, there were now no outstanding objections from the statutory consultees.

The applicant's representative commented that the developments at the Graythorp yard would bring real benefits not just through the creation of up to 749 jobs but also through the establishment of a world-class centre for excellence for the decommissioning of ships. All the concerns expressed by various groups had been considered and mitigation measures put in place. No environmental agencies were now opposed to the proposal and it was supported by Greenpeace.

Objectors' Representatives

Objectors referred to the "illegal" deal that had been entered into by ABLE UK Ltd with MARAD to bring the 'ghost ships' to Hartlepool against the wishes of the Council and the people of the town. There had been the costly court case brought against the Council and ABLE UK and the Minister had gone on to rule that the ships should be returned to the USA. Objectors considered that this was a deal of pure greed with the US government agreeing the deal as a 'sweetener'. There were no thoughts for the people of Hartlepool. The people of the town do not want to live in a toxic waste dump. Objectors stated that the town belongs to 'us', the people of Hartlepool and 'we' won't sell its future down the river.

Objectors indicated that she was surprised that officers were 'urging' approval to the applications. The applicants had made previous applications to the authority, which were granted, but facilities such as the oil separation tank had never been constructed, why? Objectors also questioned how clean up operations would be undertaken in the dry dock after dismantling works when the floor of the dock was porous, the dock walls were slag, and any oil would stick to them. The pumping of water from the dock was also a concern in that should the water be contaminated, the company had said it would be stored and then removed from the site for treatment elsewhere; but to where? Objectors had consulted the Environment Agency who had indicated that they knew of no company in the country that could deal with that level of contaminated water. There was no capacity to deal with rainwater on the site either. How could the company dismantle ships when it had no ability to deal with water on the site?

Objectors also raised concerns with the increase in traffic on Tees Road that would be created by lorries and other vehicles serving the Graythorp site. If creating jobs was ABLE UK's concern, why had he not proceeded with the wind turbine construction that he had already gained permission?

Objectors considered that the site was not adequate for the work to be undertaken there. It was not big enough to cope with the 300m ships that would reportedly be brought to the site. Objectors were also critical that the application did not include a description of how the work was to be undertaken and they felt that the Planning Committee and the public should know that now. Objectors also questioned the number of ships that would be in the dry dock when dismantling works were on going, how the steel was to be removed and how many people would be working on the site.

Objectors also questioned the EIS asking how anything could proceed without all the facts being known. There were PCB's and other dangerous substances to be removed from the ships. Objectors questioned why this work was being done here when there were state of the art facilities in the US where the ships had come from.

Objectors considered that ABLE UK Ltd had demonstrated its incompetence with dealing with waste in the past. Prior to this application the company had over 300 warnings from the Environment Agency and had had two licences revoked. The people of the town did not want this development. In a poll, 92% had stated they were against this. There had been three previous public consultation meetings and no one had spoken in favour of the applications. The simple message was no one wants this in Hartlepool.

The Planning Applications

The Principal Planning Officer presented to Members the main elements of the applications, which were set out in detail in the report to the Committee. These were summarised as follows: -

- Consideration of these applications had commenced in January 2005. Objections had been raised at that time and this had led to amended applications being submitted together with further detailed information three times. There had been consultation at each stage and all the key regulatory authorities were now satisfied, subject to the conditions proposed.
- In relation to the manoeuvring of ships into the dock, the PD Ports harbourmaster was satisfied that ships as large as 300m could be manoeuvred into the dock. A diagram was displayed to show this.
- British Energy was satisfied with the area of sheet piling to be implemented to protect the power station frontage from the newly constructed Quay 11. This quay would not now extend along the frontage of the power station. The views from the 'seal hide' would also not be obstructed by these works.
- In response to concerns that the dredging of Seaton Channel would stir up contaminants in the silt, tests had shown that the sediments in that channel were very similar to those in the river.
- Tees Valley Regeneration supported the claims of up to 500 jobs involved in the wind turbine construction. The figures relating to decommissioning works were backed up by a government report.
- The area was designated in the Local Plan as an area for marine and

offshore activity.

- An aerial photograph was used to show the separation of 1.5km between the site and the southern limits of Seaton Carew .
- The government was developing a National Ships Dismantling Strategy as part of the drive for the UK to have suitable facilities of the dismantling of ships. Over 400 EU flagged ships had been identified as requiring decommissioning by 2015.
- It was recognised that there would be waste from the dismantling works but it had to borne in mind that 98% of the material recovered would be recycled. It was acknowledged that the Seaton Meadow sw aste disposal site would be receiving some of the waste from the operations of the yard. This would limit the distance that waste would have to travel to its point of disposal. The Government’s key considerations were that ship recycling should be dealt with in safe and environmentally sound conditions.
- It was acknowledged that there would be waste within the dock itself. There would be two large tanks on the side of the dock to deal with contaminated water and the Environment Agency was happy with the arrangements.
- The effects on the nearby wildlife habitats had been examined in detail. In response to requests from English Nature, a key mitigation measure had been introduced which would stop excessively noisy works, such as the metal cutting plant and piling works, two hours either side of low tide.
- The area of SSSI that would be lost during the works to create the quay affected an area of relatively low quality. A financial contribution of £150,000 had been proposed towards habitat replacement.
- With all the appropriate safeguards set out in the report and the proposed conditions and Section 106 agreement, it was officers’ professional opinion that the applications could be approved.

Members Questions

Members raised the following questions. (Q – Question, A – Answer)

Questions to ABLE UK Ltd

- Q. If given approval to commence these works, how long would it be before the decommissioning works commenced?
- A. The applicant’s representatives commented that the project had a total construction period of one year, though some further approvals were still needed from other agencies.
- Q. Why had the ships been brought to the UK when approvals such as these were still needed?
- A. The applicant’s representatives indicated that when the company had initially started consideration of dismantling ships and oil rigs, the company had been advised by the Teesside Development Corporation, the planning authority for such matters at that time, that the permissions required by the Company could be included under the umbrella of ‘marine structures’. Subsequently, when discussing the contract to dismantle US ships, Hartlepool Borough Council had given the same advice, i.e. that marine structures included ships. It was only once the

ships were half way to the UK that the company was then contacted by the Environment Agency who questioned the company's approval and the definition of marine structures.

- Q. What action would the company take if an oil spillage occurred and oil reached the river?
- A. The applicant's representatives commented that there was already an emergency response system in place to deal with oil spillages in the Tees. All operators on the River Tees had to be signed up to the agreement and prepared to deal with oil spills. ABLE UK already had controls in place.
- Q. Could the numbers of jobs to be created be specified and would these be local jobs or agency workers from outside the UK?
- A. The applicant's representatives indicated that 239 jobs would be involved with the decommissioning works and 510 jobs involved in wind turbine construction. These numbers had been substantiated. ABLE UK Ltd would require competent people to undertake the jobs within their company. There would be a preference for local people. The Chairman advised Members that who, and how many, would work on the site was not a planning issue.
- Q. What was the expected life of the yard?
- A. The applicant's representatives indicated that there would be ships decommissioning work for around eight years, though offshore work could last for around twenty years. There were already discussions on other potential construction uses.
- Q. What were the revenue costs associated with the works particularly in relation to wage costs and how many jobs were built into the business plan?
- A. The applicant's representatives indicated that the company's business plan was with their bankers, not the Council.
- Q. How much bearing did the Hazardous waste application have on the main application?
- A. Mr Wheeler indicated that they were related but the second application was required for the company to meet its obligations under the COMAH (Control of Major Accident Hazards) Regulations.
- Q. Some people understood that the Brierton Quarry site had been purchased by ABLE UK Ltd for waste disposal.
- A. The applicant's representatives stated that this was untrue.
- Q. When were all the jobs to be created envisaged to be on site?
- A. The applicant's representatives anticipated a build up of employment over a period of four years.
- Q. Did ABLE UK Ltd envisage dismantling nuclear powered ships?
- A. The applicant's representatives commented that that may be possible but only once the nuclear materials/power plant had been removed prior to submission for decommissioning.
- Q. How did the company intend to deal with contaminated water and did it have a discharge licence?
- A. The applicant's representatives indicated that the company currently did not have a discharge licence and could not go ahead without one. There was a process for dealing with contaminated water to be formally agreed with the Environment Agency.

- Q. Could ABLE UK Ltd guarantee that there would be no spillage from ships in transit to the site?
- A. The applicant's representatives indicated that the Maritime Coastguard Agency have to licence ships as being sea-worthy.
- Q. It had been indicated that only 2% of waste from the ships could not be recycled but in terms of dealing with 200,000 tonnes (net) of ships in the yard per annum, 2% was still a substantial amount of waste to be disposed of in a landfill site. Did this figure apply to all the decommissioning work to be undertaken in the yard?
- A. The applicant's representatives indicated that oilrig decommissioning work led to the same level of recycling as ships, i.e. 98% of materials removed could be recycled, leaving only 2% to be disposed of.
- Q. How and where were the hazardous substances removed from the ships to be disposed of and could it be returned to the United States? Had ABLE UK Ltd identified the sites that waste would be transported to so that Members could understand the distribution of the waste?
- A. The applicant's representatives commented that all hazardous waste had to be disposed of in a suitably licensed waste disposal site. There were two such sites within five miles of the Graythorp site. Seaton Meadows Waste Disposal Site was the nearest such site and there was a legal obligation for the company to dispose of such waste arising from the US ships at that site. Shipping such waste back to the US would require a Trans Frontier Shipment Agreement, which would require central government approval. It was not envisaged that any of the waste would be returned to the US.
- Q. Was the yard still viable if the US MARAD contract was taken out of the equation?
- A. The applicant's representatives indicated that for the waste recycling process to be viable, it needed volume in order to compete in the world market. The yard would still be viable without the US contract but at this time, the US government was the only one who had taken this kind of decision.
- Q. Reference was made to the comment in the presentation that 26 ships would be decommissioned each year in two cycles – where do the company propose to stand the ships.
- A. The applicant's representatives indicated that the dock would be large enough to accommodate 12-14 ships together.
- Q. Members questioned if ABLE UK Ltd had considered the potential effects their development could have on flagship developments for Hartlepool such as Victoria Harbour?
- A. The applicant's representatives commented that decommissioning work had been undertaken at the site since 1995 and the Hartlepool Marina site had developed during that period without any noticeable problems.
- Q. Why had the company not proceeded with the construction of the oil separation tanks as indicated by the objectors.
- A. The applicant's representatives commented that there was an operational oil separation system on site. What the company didn't have permission for was the wind turbine construction facility.

Questions to the Objectors

- Q. What comment have you in relation to the applicant's representatives indication that there is an operational oil separation tank on the site?
- A. Objectors commented that an oil separation facility to deal with rain run-off on the site had not been installed and should already be in place.
- Q. Did the objectors have any further information on where they believed waste was to be disposed?
- A. Objectors commented that the only waste referred to was that from the ships but no reference to where contaminated water was to be disposed was made in the applications. Most waste would be going to the Seaton Meadows site that was only down the road from Seaton Carew. Objectors commented that the operators of the Seaton Meadows site had only just recently gained permission to mix contaminated water with fly ash and dispose of this in Seaton Meadows.
- Q. Reference was made to the comments about ABLE UK Ltd being given 300 warnings and having two licences removed, where were these comments drawn from?
- A. Objectors commented that the warnings are detailed on the Environment Agency's website. The applicant's representatives objected to the comments and with the Vice-Chair's permission stated that Alab Environmental Services operated the Seaton Meadows site; they were not one of the applicant's companies nor had the applicant owned or had shares in the company.
- Q. Reference had been made to there being two sites that could deal with the hazardous waste from the ships, one being Seaton Meadows, where was the other?
- A. The applicant's representatives indicated that the second site was at Port Clarence.

Questions to Officers

- Q. The objectors had made a statement that the officers of this authority had 'urged acceptance' of these applications. Had any statements been made to the press outside the normal process of the publication of the reports?
- A. The Assistant Director (Planning and Economic Development) stated that no such comment had been made by any officer.
- Q. Where would the resources come from to enable the Environment Agency to undertake its monitoring?
- A. The Environment Agency representative stated that the EA would receive the usual fees and charges from ABLE UK Ltd. The Chief Solicitor commented that this was not a relevant planning issue.
- Q. What was in place to monitor the quantities of materials, numbers and weights of ships etc.?
- A. The Environment Agency representative stated that ABLE UK Ltd would be required to submit quarterly returns to the EA.
- Q. It was stated in the report (para. 8.8.20) that the competence of the

developer had on occasions been taken into account as a material planning issue, why not in this case?

- A. The Principal Planning Officer stated that this was only the case if there was a risk of a site becoming abandoned with adverse effects on surrounding land uses. This was not the case here.
- Q. What is the basis of the statement that there is nine years waste fill capacity in the Tees Valley to accommodate the types of waste that this application will create?
- A. The Principal Planning Officer indicated that this came from statistics provided by the Environment Agency. The information provided by the EA indicated that the waste from this operation would account for around three months capacity of the sites. These sites were constantly monitored.
- Q. The application stated that the yard would be used for ships construction as well as dismantling. Was this possible or was the application simply misleading?
- A. The Development Control Manager stated that the report simply reflected what had been applied for by applicant. The application was seeking to cover all potential uses for the yard and it was possible that ship building could return.
- Q. Have the potential problems of this waste on Hartlepool's drinking water been taken into account?
- A. Northumbrian Water had been consulted and had indicated that they did not see that this application would have an impact. The representative from the Environment Agency assured the Committee that there was no potential impact on Hartlepool's drinking water.
- Q. The applicant's representative had indicated that the applicant did not own or hold any shares in Alab Environmental Services, the company who operate the Seaton meadows site. However, the report indicates that Alab is a subsidiary company of ABLE UK Ltd. Which is correct?
- A. The Assistant Director (Planning and Economic Development) indicated that the report was written in good faith in the belief that that comment was correct. The applicant's representative has indicated otherwise today at the meeting and therefore, Officers could only apologise for the mistake.

There was a debate on this apparent inaccuracy and the potential for others in the report. The Chief Solicitor advised that Members were entitled to form their own views based on the information they had. This apparent error had only become known during the meeting and an apology had been made for the mistake.

- Q. How often was monitoring undertaken and how many staff did the Environment Agency have for this work?
- A. The Environment Agency representative indicated that water quality was tested regularly and air quality monitoring was carried out by the local authority. The EA employed ten staff in this area. In relation to waste that is disposed of at Seaton Meadows, it was reported that the site was inspected regularly. The operator had to submit quarterly returns to the EA, and these and all other information were available on the EA website.

Members Debate

The Assistant Director (Planning and Economic Development) indicated that the Committee had to determine three planning applications relating to the TERRC facility at Graythorp. All three planning applications had been submitted by ABLE UK Ltd. The Environmental statement submitted with the application indicates that the non-recyclable waste from the operation will go to the Seaton Meadows waste disposal site. The company was, however, free to send the waste to any site with an appropriate licence for the specific waste. It was understood that the company had an agreement with Alab Environmental Services. The applicant's representatives confirmed that ABLE UK Ltd had entered into a ten-year contract with Alab in 2004. The application referred to other waste disposal sites as the company could not limit itself to only one location.

A Member stated that while being told that Members must concentrate on the application for decommissioning within the site, Members considered that it was not possible to separate waste disposal from the application particularly when it was government policy to dispose of the waste as close as possible to the source. Members felt bound to take into account the cumulative effects of the waste disposal at Seaton Meadows. The Principal Planning officer indicated that PPS10 does acknowledge the environmental impacts development would have and these had all been taken into account and safeguards put in place where they were needed. The government did recognise that there was a balancing act on these matters and that the waste disposal sites to take hazardous waste were not spread equitably around the country.

Members expressed concern in relation to the transportation of ships to the UK and the potential for leaks or other accidents on route. Councillors asked if the planning application was refused would the four ships currently in the dock be removed? Also without planning permission would the Environment Agency be in the position that it was unable to grant the licences required? The Chief Solicitor advised that while these answers may be of interest to Members, they were not planning considerations. Similarly, in relation to the question of the ownership of Alab Environmental Services, the Chief Solicitor stated that this was not a planning issue and cautioned Members against pursuing such a line of questioning.

One Member commented that many of the Members questions were, in many respects, unanswerable. The application had taken three years to develop and many of the issues involved had grown out of all proportion. The Councillor believed that this was a massive opportunity for the town. There would be very powerful tools put in place through the conditions to monitor the site and therefore the Councillor supported the applications and moved approval. This motion was not seconded.

Other Members considered that the town already had to deal with the issues of past contamination and this meant that Members must think hard about the

waste legacy they would leave behind. Councillors indicated that they believed that the applications did not give any guarantees and considered that they had not heard anything that would make them happy to support the applications.

Members referred to the jobs that were promised through this application. They were concerned, however, at the potential for hundreds more ships coming to this site for decommissioning and their waste being dumped in Hartlepool. The town already had 2000 jobs that relied on tourism; how would they be affected by this application? When huge numbers of visitors were to come to the town in 2010 for the Tall Ships event, what did an operation like this say about how we viewed our town? Rejection of the applications was moved and seconded.

A Member indicated their support for the proposal to refuse, commenting that the people of Hartlepool had already witnessed the effects of toxic waste and they didn't need any more. The effects on human health could be significant and the application should also be refused on these grounds. Other Councillors also supported the rejection of the applications indicating that they did not believe the country's future lay in such heavy industry.

A Councillor indicated that they had been approached by people who supported the application because of the new jobs it would create. The Member indicated that they had doubts over the financial viability of the proposals. While the town and the area wanted jobs, they should not be at any price.

Members of the Committee requested that a recorded vote be taken on the three individual planning applications. This was put to the Committee and agreed.

Decision

1. That application H/2005/5040 (Development 1 – the main application for the site) be refused.

Reasons –

- (i) Notwithstanding the proposed environmental safeguards it is considered that the proposed development would have a significant adverse effect on the integrity of nearby sites of ecological importance by reason of habitat loss and potential emissions to water and air and that such impacts would have a significant adverse effect on wildlife using those areas contrary to policies GEP1, GEP4, WL1, WL2 IND9 and IND11 of the adopted Hartlepool Local Plan 2006.
- (ii) Notwithstanding the proposed environmental safeguards it is considered that the proposed development would have a significant adverse effect on the health and well being of people living near to

the application site by reason of potential emissions to water and air contrary to policies GEP1, GEP4, IND9 and IND11 of the adopted Hartlepool Local Plan 2006.

- (ii) It is considered that the projected employment creation has not been adequately verified and that on balance the environmental concerns, referred to in reasons 1 and 2, would outweigh any benefits accruing or alleged to accrue from the development
- (iv) It is considered that both the visible presence of ships awaiting decommissioning and the associated negative connotations stemming from the use of the site for the import and handling of hazardous waste materials would have a significant detrimental effect on the promotion of tourism in the Hartlepool area with consequent significant adverse effects on the regeneration of the town and nearby areas and would outweigh any benefits accruing or alleged to accrue from the development contrary to policy GEP4 of the adopted Hartlepool Local Plan 2006.
- (v) It is considered that the importation of waste materials from other countries would be in conflict with the “proximity principle” defined in Council Directive 75/442/EEC on waste, as amended by Council Directive 91/156/EEC and would lead to pressures on existing landfill site capacity and demands for additional facilities.

The Members present voted in the following manner: -

Councillor J Marshall	-	Against
Councillor RW Cook	-	Abstain
Councillor D Waller	-	Against
Councillor G Henery	-	Against
Councillor S Griffin	-	Against
Councillor S Kaiser	-	For
Councillor J Lauderdale	-	Against
Councillor V Tumilty	-	Against
Councillor P Laffey	-	Against
Councillor C Richardson	-	Against
Councillor MWaller	-	Against
Councillor G Hall	-	Against
Councillor E Wright	-	Against

- 2. That application H/2005/5041 (Development 2 – Construction of cofferdam at entrance to dock (option 1)) be refused.

Reason –

It is considered that the assembly and disassembly of the cofferdam would result in the discharge of pollutants to the marine environment to the significant detriment of the integrity of nearby sites of ecological

importance and the wildlife which they support contrary to policies GEP1, GEP4, WL1 and WL2 of the adopted Hartlepool Local Plan 2006.

The Members present voted in the following manner: -

Councillor J Marshall	-	Against
Councillor R W Cook	-	Abstain
Councillor D Waller	-	Against
Councillor G Henery	-	Against
Councillor S Griffin	-	Against
Councillor S Kaiser	-	For
Councillor V Tumilty	-	Against
Councillor P Laffey	-	Against
Councillor C Richardson	-	Against
Councillor M Waller	-	Against
Councillor G Hall	-	Against
Councillor E Wright	-	Against

3. That application H/2005/5040 (Development 3 – Construction of cofferdam at entrance to dock (option 2)) be refused.

Reason –

It is considered that the assembly and disassembly of the cofferdam and rock bund would result in the discharge of pollutants to the marine environment to the significant detriment of the integrity of nearby sites of ecological importance and wildlife which they support contrary to policies GEP1, GEP4, WL1 and WL2 of the adopted Hartlepool Local Plan 2006.

The Members present voted in the following manner: -

Councillor J Marshall	-	Against
Councillor R W Cook	-	Abstain
Councillor D Waller	-	Against
Councillor G Henery	-	Against
Councillor S Griffin	-	Against
Councillor S Kaiser	-	For
Councillor V Tumilty	-	Against
Councillor P Laffey	-	Against
Councillor C Richardson	-	Against
Councillor M Waller	-	Against
Councillor G Hall	-	Against
Councillor E Wright	-	Against

**64. Planning Applications – H/2005/5878 – Able UK Ltd
TERCC Facility, Tees Road, Graythorp, Hartlepool –
Hazardous Substance Consent to store various
hazardous substances** (*Assistant Director of Planning and
Economic Development*)

Representing the Applicants, ABLE UK Ltd: -

Mr Peter Stephenson, Mr Glyn Wheeler, Mr Gary Doubleday and
Mr Ian Fenny.

Representing the Objectors: -

Mrs Jean Kennedy, Ms Iris Ryder, Mr Peter Tweddle and Mrs Joan Steele.

Statutory Agencies; -

Mr Mike Leakey – Natural England (formerly English Nature),

Mr Mike Quigley – Natural England (formerly English Nature),

Mr Bob Pailor – Environment Agency,

Mr Peter Duffy – Environment Agency.

Presentations to Members

The Application

The full detailed application was set out in the agenda papers. The Principal Planning Officer highlighted that the Health and Safety Executive (HSE) had the power to determine the extent of any consultation zone in relation to such applications. The HSE had not recommended a consultation zone in relation to this application. While there would be some storage of oil on the site, much of the fuel oil present in any of the vessels would be pumped directly to tankers for immediate transportation off site. In response to the potential flooding of the site, the storage areas would be protected by bunding.

Applicant: Able UK Ltd

The applicant's representative indicated that the need for the company to submit the application had arisen through the HSE and the site's COMAH (Control of Major Accident Hazards) Regulations registration. COMAH does not normally apply to operations such as those proposed at Graythorp and the company understood it was the first in the country to be required to seek such permission. The fact that the HSE had set no consultation zone obviously highlights the fact that there is no major concern. The quantities stated in the application were maximum figures and essentially 'worst case' figures as the company did not intend to hold any where near those maximum figures on the site at any one time.

Objectors' Representatives

Objectors indicated that if this was the first time that a company such as ABLE UK Ltd had been required to make this application then there was something to worry about. The storage of oxygen and acetylene in the same

storage shed was dangerous. The quantities set out in the application for all substances were very high. Objectors referred to the previous discussions and stated that there was, in their view, a relationship between ABLE UK Ltd and Alab Environmental Services; Alab had its offices in ABLE's building. The applicant's representative stated that Alab were indeed a tenant in the building. They were one of eleven tenants including Stockton Borough Council.

Members Questions

Members raised the following questions. (Q – Question, A – Answer)

Questions to ABLE UK Ltd

- Q. A Councillor asked how many monitoring systems were there on the site to monitor potential leaks of these substances?
- A. The applicant's representative indicated that there was no requirement through this registration to monitor air on the site. Air was monitored through other consents.
- Q. What quantities of these substances/gases were on the site now?
- A. The applicant's representative indicated that the hazardous substances registration doesn't currently apply to the site.

Members Debate

A Councillor moved that the application be approved. This motion was not seconded.

Another Member commented that there would be nearly 10,000 tonnes of hazardous materials on the site. These would include explosives, flammable liquids and gases, mercury, lead and cadmium. The Councillor considered that there were insufficient safety precautions to control the potential dangers. This site was also very close to other dangerous sites and also SSSI's and SPA's. Councillors also expressed concern in relation to the proximity to other potentially dangerous sites and suggested that this form part of the reasons for refusal.

Members of the Committee requested that a recorded vote be taken on the application. This was put to the Committee and agreed.

Decision

That the application for Hazardous Substances Consent to store various hazardous substances at the ABLE UK Ltd TERRC facility on Tees Road, Graythorp, Hartlepool be refused.

Reason –

- (i) It is considered that the presence of hazardous substances as proposed would have a significant adverse effect on the integrity of nearby sites of ecological importance by reason of emissions to water

and air and that such impacts would have a significant adverse effect on wildlife using those areas contrary to policy IND11 of the adopted Hartlepool Local Plan 2006.

- (i) It is considered that the presence of hazardous substances as proposed would have a significant adverse effect on the health and well being of people living near to the application site contrary to policy IND11 of the adopted Hartlepool Local Plan 2006.
- (ii) It is considered that the cumulative presence of hazardous substances on this and other nearby sites would have a significant adverse effect on the local community, environmental quality, social cohesion and inclusion and economic potential contrary to policy IND11 of the adopted Hartlepool Local Plan 2006.

The Members present voted in the following manner: -

Councillor J Marshall	-	Against
Councillor RW Cook	-	Abstain
Councillor DWaller	-	Against
Councillor G Henery	-	Against
Councillor S Griffin	-	Against
Councillor S Kaiser	-	For
Councillor V Tumilty	-	Against
Councillor P Laffey	-	Against
Councillor C Richardson	-	Against
Councillor MWaller	-	Against
Councillor RWaller	-	Against
Councillor G Hall	-	Against
Councillor EWright	-	Against

RW COOK

VICE-CHAIRMAN

PLANNING COMMITTEE

6 November 2006



Report of: Chief Solicitor

Subject: ABSENCE OF CHAIR AND VICE CHAIR OF
COMMITTEE AND DELEGATED POWERS
DECISIONS ON PLANNING APPLICATIONS

1. PURPOSE OF REPORT

To seek the Committee's approval to an arrangement to deal with delegated powers decisions relating to planning applications.

2. BACKGROUND

The majority of planning applications submitted to the authority are dealt with by the Development Control Manager under delegated authority following consultation with the Chair or Vice-Chair of the Planning Committee. This ensures that routine, non-contentious planning applications are dealt with in an efficient and timely manner. Under this system, the Development Control Manager meets with either the Chair or Vice-Chair on a regular, usually weekly, basis to discuss and deal with applications that fall under this arrangement.

As Members are aware, the Chair, Councillor Iseley, is unavailable at the moment to undertake his role due to ill-health. In accordance with the Council's Constitution, the Vice-Chair, Councillor R W Cook, has therefore been undertaking the Chair's duties which include the role in relation to those planning applications that are approved or rejected under delegated authority. Councillor R W Cook will, however, be unavailable to undertake these duties between 9 November and 10 December 2006 as he will be out of the country.

3. PROPOSALS

In light of the absence of both the Chair and Vice-Chair, an arrangement needs to be put in place to ensure that those applications that are dealt with under the delegated authority process are attended to in a timely manner.

It is suggested that the Committee appoint a member of the Committee with whom the Development Control Manager may consult before exercising his delegated power; ideally, this would be a senior member of the Committee in whose judgment Committee members would have confidence. Relevant applications could then be dealt with in the same manner as under normal circumstances. Unless a 'consultee member' is appointed, it would be necessary to establish, say, a three-member sub committee to meet on a weekly basis to deal with these applications under powers delegated to the sub-committee, i.e. to act in the place of the Development Control Manager. However, that would seem to be unnecessarily burdensome having regard to the non-contentious nature of the decisions in question.

Members should be aware that not having an arrangement to deal with the delegated decisions could adversely affect the Council's performance on planning applications. Grant funding for the Council's planning function is highly dependent on meeting performance statistics set by central government.

4. RECOMMENDATIONS

That a member be appointed to act as consultee for the purpose of the Development Control Manager's exercise of his delegated powers.

6. REASONS FOR RECOMMENDATIONS

To ensure that the planning function of the authority operates efficiently during the absence of the Chair and Vice-Chair of the Planning Committee

7. BACKGROUND PAPERS

The Council's Constitution.

8. CONTACT OFFICER

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