

PLEASE NOTE VENUE

PLANNING COMMITTEE AGENDA



Wednesday, 22nd November, 2006

at 10.00 a.m.

**in the Conference Suite, Belle Vue Community Sports and Youth Centre,
Kendal Road**

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 25th October 2006 (*attached*)

4. ITEMS REQUIRING DECISION

- 4.1 Planning Applications – Assistant Director (Planning and Economic Development)
1. H/2006/0745 – 1A Hillcrest – new access
 2. H/2005/5486 - Tesco Stores Ltd, Belle Vue Way
 3. H/2006/0338 - The Wynd – Care Home
 4. H/2006/0770 – 22 Eldon Grove – garage to rear
 5. H/2006/0770 – Mayfield House, Friar Terrace
 6. H/2006/0726 – The Annexe, Wharton Terrace – Ground floor extension to provide a multi-function room
 7. H/2006/0736 – 60 Spalding Road – single storey rear kitchen extension, dormer windows to front and back to create 2 bedrooms (increase in roof height)

PLEASE NOTE VENUE

- 4.2 Planning Code of Practice – Chief Solicitor
- 4.3 Development Control Half Yearly Performance Review – Assistant Director (Planning and Economic Development)
- 4.4 Update on Progress on Dealing with Derelict and Untidy Buildings and Land – Assistant Director (Planning and Economic Development)
- 4.5 Proposed Art Feature – Former Seaton Carew Baths Site – Assistant Director Planning and Economic Development)
- 4.6 Appeal by ALAB Environmental Services – Assistant Director (Planning and Economic Development)
- 4.7 Appeal by Gorkhan Tikna, Site at 93 York Road – Assistant Director (Planning and Economic Development)
- 4.8 The Requirement for Planning Permission for domestic wind turbine and solar panel (to follow) – Assistant Director (Planning and Economic Development)

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

6. FOR INFORMATION

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of Monday 18th December 2006 at 10am.

Next Scheduled Meeting – 20th December 2006

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

25th October 2006

Present:

Councillor Councillor Rob Cook (In the Chair)

Councillors Councillors Stephen Akers-Belcher, Shaun Cook, Gordon Henery, Geoff Lilley, Robbie Payne, Maureen Waller, Ray Waller and Edna Wright

In accordance with Council Procedure Rule 4.2(ii) Councillors John Coward and Sheila Griffin were in attendance as substitutes for Councillors George Morris and Bill Iseley respectively

Officers: Tony Brown, Chief Solicitor
Stuart Green, Assistant Director (Planning and Economic Development)
Richard Teece, Development Control Manager
Roy Merrett, Principal Planning Officer
Adrian Hurst, Principal Environmental Health Officer
Richard Waldmeyer, Principal Planning Officer (Policy, Planning and Info)
Peter Nixon, Senior Traffic Technician
Gill Scanlon, Planning Technician
Sarah Scarr, Landscape Planning and Conservation Manager
Jo Wilson, Democratic Services Officer

65. Apologies for Absence

Apologies were submitted from Councillors Derek Allison, Bill Iseley, Stan Kaiser, George Morris and Edna Wright

66. Declarations of interest by members

Councillor Geoff Lilley declared a personal interest in H/2005/5486.

67. Confirmation of the minutes of the meeting held on 24th July 2006

Confirmed

68. Confirmation of the minutes of the meeting held on 27th September 2006

Confirmed

69. Confirmation of the minutes of the meeting held on 12th October 2006

It was indicated to members that officers had been unable to table these minutes at the meeting as originally intended. Members noted this.

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

The following planning applications were submitted for the Committee's determinations and decisions are indicated as follows:

Alan Wright (applicant) and Ian Campbell (objector) addressed the Committee in relation to the following application.

Number:	H/2006/0304
Applicant:	Mr Ted Jackson Tyne Valley Developments 7 Amble close Hartlepool
Agent:	Jackson plan Limited Mr Ted Jackson 7 Amble Close Hartlepool
Date received:	09/05/2006
Development:	Erection of 17 executive apartments with access road and service facilities
Location:	SHU-LIN ELWICK ROAD HARTLEPOOL
Decision:	Planning Permission Refused

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

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.

The Committee considered representations in relation to this matter.

Mr Douglas (objector) addressed the Committee in relation to the following application

Number: H/2005/5486

Applicant: Tesco Stores Limited
P.O. Box 400 Cirrus Building Shire Park

Agent: Development Planning Partnership Suite 1D Josephs
Well Hanover Walk Leeds

Date received: 03/06/2005

Development: Extension to store to provide additional sales and storage areas and associated works
(AMENDED PLANS RECEIVED)

Location: TESCO STORES LTD BELLE VUE WAY
HARTLEPOOL

Decision: **Deferred for additional information in relation to access considerations to a nearby Engineering Company**

Number: H/2006/0461

Applicant: Legato Properties Ltd
28-30 The Parade St Helier

Agent: Nunthorpe Construction Services 5 Castle Wynd
Nunthorpe Middlesbrough

Date received: 23/05/2006

Development: Provision of car park and footpaths to enable access to country park (AMENDED PLANS RECEIVED)

Location: Country Park Wynyard Woods Billingham

Decision: **Subject to no objections, materially different to those already lodged being received before the expiry of the additional publicity period. Mindful to APPROVE but a final decision was delegated to the Development Control Manager in consultation with the Chair of the Planning Committee**

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.
In the interests of visual amenity.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
4. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) received on 20 October 2006, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt

The Committee considered representations in relation to this matter.

Mr Lax (applicant) and Mr Marshall (objector) addressed the Committee in relation to the following application

Number:	H/2006/0677
Applicant:	Mr Lax TORCROSS CLOSE HARTLEPOOL
Agent:	Mr Lax 8 TORCROSS CLOSE HARTLEPOOL
Date received:	01/09/2006
Development:	Erection of a first floor bedroom extension, alterations to existing garage to form family room and erection of a detached garage (amended scheme)
Location:	8 TORCROSS CLOSE HARTLEPOOL

Decision: Planning Permission Approved

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. 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 garage(s) hereby approved shall only be used for purposes incidental to the use of the dwellinghouse and no trade or business shall be carried out therein.
In the interests of the amenities of the occupants of neighbouring properties.
4. 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.
5. Unless otherwise agreed in writing by the LPA the garage shall be constructed in accordance with the additional information received by the LPA on 18th October showing finished floor levels and the overall height of the garage.
In the interests of the amenities of the occupants of neighbouring properties.

The Committee considered representations in relation to this matter.

Number:	H/2006/0572
Applicant:	Mrs J Deville Eldon Grove School Eldon Grove School Eldon GroveHartlepool
Agent:	Hartlepool Borough CouncilMr Phil Skinner Leadbitter Buildings Stockton Street Hartlepool
Date received:	25/07/2006
Development:	Alterations and extension to classrooms
Location:	ELDON GROVE PRIMARY SCHOOL ELDON GROVE HARTLEPOOL
Decision:	Planning Permission Approved

CONDITIONS AND REASONS OR REASONS FOR REFUSAL

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

The Committee considered representations in relation to this matter.

71 Update on Current Complaints (*Assistant Director (Planning and Economic Development)*)

Members were advised that during the four week period prior to the meeting fifty two (52) planning applications had been checked. Forty five (45) had required site visits resulting in various planning conditions being discharged by letter.

Member attention was drawn to 11 current ongoing issues detailed in the report.

A member requested that the relevant Ward Councillors be provided with written updates on the issue relating to the erection of an extension to the rear of a commercial property on Moreland Street. This was agreed by the Development Control Manager.

Decision

Members noted the report.

72 Appeal Ref APP/HO724/A/2025568/NWF:H/2006/0282 Erection of a small retail/food unit, Slake Terrace, Hartlepool, TS24 0RU – *Assistant Director (Planning and Economic Development)*

Members were advised that an appeal had been lodged following the refusal of the Planning Committee to allow the erection of a small retail/food unit at the above property. The appeal was to be decided by written representation and authority was requested for officers to contest the appeal.

Decision

That authority be given to officers to contest the appeal

**73 Appeal Ref APP/HO724/A/06/2025540/NWF:
H/2006/0502 Change of Use to a Hot Food Takeaway
Shop, 143 Oxford Road, Hartlepool, TS25 5RJ –
Assistant Director (Planning and Economic Development)**

Members were advised that an appeal had been lodged following the refusal of the Planning Committee to allow the change of use of the above property to a hot food takeaway shop. The appeal was to be decided by written representation and authority was requested for officers to contest the appeal.

Decision

That authority be given to officers to contest the appeal

74 Local Government (Access to Information) Act 1985

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

Minute 77 – (Para 5) – This item contains exempt information under Schedule 12A Local Government Act 1972, namely, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

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

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

76. Declarations of interest by members

Councillor Geoff Lilley declared a personal and prejudicial interest in the following item and left the meeting.

77 Able UK Ltd TERCC Facility, Tees Road, Graythorp, Hartlepool *(Assistant Director (Planning and Economic Development))*

Members were advised of correspondence in relation to these applications.

Decision

The Decision of the Committee is set out in the exempt section of the minutes.

ROB COOK

CHAIRMAN

No: 1
Number: H/2006/0745
Applicant: Mr C Linton HILLCREST GROVE ELWICK
HARTLEPOOL TS27 3EH
Agent: 1A HILLCREST GROVE HARTLEPOOL TS27 3EH
Date valid: 06/10/2006
Development: Variation of approved housing development to provide a
new vehicular access and car hardstanding
Location: 1A HILLCREST GROVE ELWICK HARTLEPOOL
HARTLEPOOL

The Application and Site

1.1 The application site lies to the west of Elwick Village, within the village boundaries. A detached dormer bungalow was approved on this site in March 2004, with integral double garage and associated drive accessed from Hillcrest Grove.

1.2 The application has been submitted to regularise the formation of an unauthorised access from Hillcrest Grove, to the north of the dwelling. The application also includes the formation of a hard standing area.

1.3 A second unauthorised access was also formed from this piece of land into the field to the rear of the property, however this access point is to be removed.

Publicity

1.4 The application has been advertised by way of neighbour letters (5). To date, there have been 3 letters of objection.

1.5 The concerns raised are:

1. Concerns the property is being used for commercial purposes
2. Congestion of vehicles on the road
3. Use of the additional hard standing to park commercial vehicles
4. Application would allow access to the adjoining fields

Copy Letters A

1.6 The period for publicity has expired.

Consultations

1.7 The following consultation replies have been received:

Traffic and Transportation - No major highway implications providing there is no access to the field to the rear of the property from Hillcrest Grove.

Elwick Parish Council – Offer no comment

Planning Policy

1.8 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.

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

Planning Considerations

1.9 The main planning consideration in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan 2006, highways implications and the impact on the surrounding area and neighbours.

1.10 Objections have been raised by surrounding residents in relation to the congestion of traffic on Hillcrest Grove apparently from the application site. Concerns have also been raised in relation to the proposed hard standing which could encourage more parking in the area and in particular parking of commercial vehicles.

1.11 It is considered that the formation of another access from Hillcrest Grove and the proposed hard standing would not have a detrimental affect on the surrounding area and neighbours, and could ease the current congestion currently experienced by the surrounding residents. A condition could be imposed to restrict the types of vehicles to be parked on this area to vehicles with purposes incidental to the dwellinghouse. A single van (up to transit size) would normally be considered ancillary where it is the main means of transport on a daily basis for the occupier of the property. Storage of materials, deliveries, customers visiting would not be appropriate. With regard to concerns from neighbours relating to the carrying out of a business from the property an investigation is currently underway as a separate issue. A condition would be enforceable though Magistrates Court with no right of appeal as such.

1.12 With regard to the formation of an access in terms of the streetscene, it is considered that there is no detrimental affect on the surrounding area, subject to appropriate means of enclosure, which can be controlled through condition.

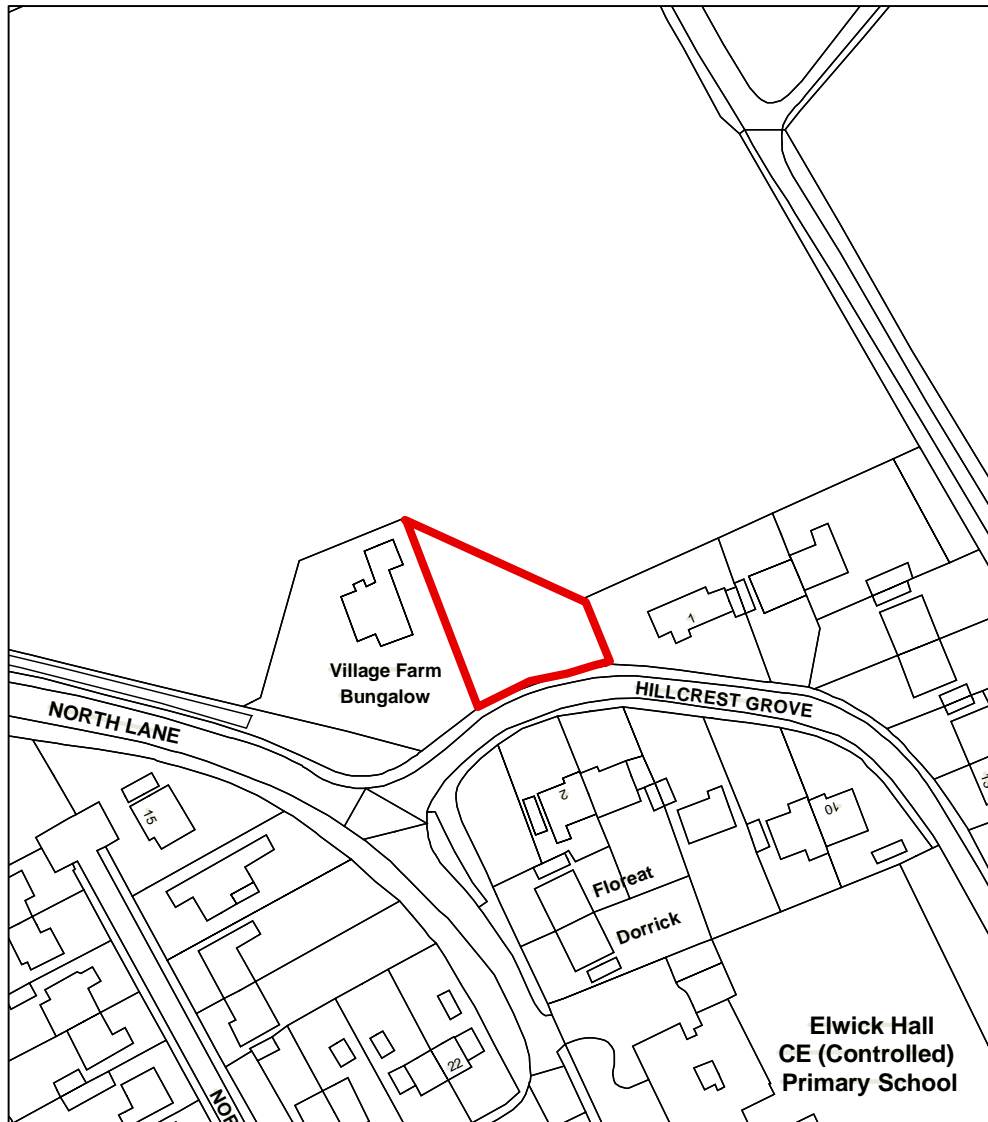
1.13 In terms of highways the Traffic and Transportation section are satisfied that allowing this development would cause no major highways implications.

1.14 It is considered that the proposed development is considered acceptable subject to conditions.

RECOMMENDATION - APPROVE

1. 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.
2. The hard standing hereby approved shall only be used to park vehicles for purposes incidental to the use of the dwellinghouse.
In the interests of the amenities of the occupants of neighbouring properties.
3. No access shall be taken from the application site to the field to the rear and the existing gate shall be removed and the fencing originally required when the bungalow was built provided before the hardstanding and access hereby approved are brought into use.
In the interests of highway safety and for the avoidance of doubt.

1A Hillcrest



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 06/11/06
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2006/0745	REV

No: 2
Number: H/2005/5486
Applicant: Tesco Stores Limited P.O. Box 400 Cirrus Building Shire Park Welwyn Garden City Herts
Agent: Development Planning Partnership Josephs Well Hanover Walk Leeds LS3 1AB
Date valid: 03/06/2005
Development: Extension to store to provide additional sales and storage areas and associated works
(AMENDED PLANS RECEIVED)
Location: TESCO STORES LTD BELLE VUE WAY HARTLEPOOL HARTLEPOOL

Background

2.1 This planning application was deferred at the previous meeting of the Planning Committee on 25 October 2006 to enable discussion to take place with HQ Engineering, a local business situated on Burn Road over their highway related concerns. Secondly, Members requested further clarification about the possibility of allocating the bus service contribution to the reinstatement of morning services on the 526 route. The original report updated as necessary is reproduced below.

The Application and Site

2.2 The application is for planning permission to extend the existing Tesco store to form a unit with a total floor area of 12090 square metres (gross), associated parking, landscaping and highway improvements. The extension which is some 2600 sq m (net) relates to an area of land to the east of the existing Tesco store which was formerly a Jewson depot which is currently allocated for employment purposes but has been vacant since 2000. The proposed extension would be almost half the existing net floor area of the store. The extension is intended to enable a wider range of convenience and ancillary comparison goods to be offered and to allow improvements in the level of customer facilities.

2.3 As part of the application it is proposed to relocate the vehicular access point to the site further to the east along Burn Road. This would comprise of a new signalised junction. It is also proposed to undertake amendments to Burn Road / Belle View Way roundabout to provide increased junction capacity to accommodate the additional traffic. The most significant of these amendments comprises the introduction of a new segregated left turn from Burn Road East to Belle Vue Way. The new access into the site junction is intended to incorporate pedestrian crossing facilities.

2.4 The proposal incorporates the following elements:-

- i) Pedestrian routes improved with pedestrian crossing provided within the site access junction, pedestrian access provided to Baltic Street and widened pedestrian walkway/cycleway which links to a new pedestrian route to Burn Road.
- ii) The existing pedestrian crossing on Belle Vue Way would be upgraded to a Toucan crossing, and the footpath width between the store and the crossing will be increased with the cycleway extended subject to a detailed survey.
- iii) A bus lay-by and shelter provided within the site, linked to the store entrance by a dedicated pedestrian route.
- iv) The provision of a bus gate to allow egress onto Burn Road for buses only. It is anticipated that the bus gate will incorporate a rising bollard activated by a transponder within the vehicle.
- v) An off-street parking area will be provided to ensure that neighbouring businesses are not disadvantaged by changes to on-street parking regulations that would be required to accompany the development proposals. To further ensure that businesses are not disadvantaged access to the car park will be separate from the main Tesco car park as it is considered that such an arrangement is far more convenient for them.
- vi) The car park will be constructed to Tesco own design standards which they say will incorporate many of the same features of the "secured by design" standards e.g. CCTV, lighting and staff surveillance.
- vii) Cycle parking will remain in its previously proposed location some 30 metres from the main entrance and are positioned to tie in with the main pedestrian/cycle routes into the store.
- viii) Petrol station to be expanded.
- ix) Rear service yard to be expanded.

2.5 A further 351 car parking spaces are proposed taking the total to 961.

2.6 The site is bounded to the north by Burn Road opposite the site is a McDonalds Restaurant and a Vauxhall car dealership. The western boundary of the site is formed by Belle Vue Way beyond which is a large residential area. To the east of the site is Baltic Street and the Longhill Industrial Estate. In terms of the layout of the site, the food store is located to the south and the proposal would see the store extended eastwards. The car parking and the petrol filling station are located to the north of the existing store.

2.7 The design of the building would comprise a combination of brickwork and composite cladding.

2.8 The application is accompanied by a Retail Statement and Statement on Employment land issues prepared by Development Planning Partnership. A Transport Assessment has been provided.

2.9 The above studies make the following points in respect of the application:-

- The company is able to install a mezzanine level floor (up to 3187 square metres net) within the store without the need for planning permission. If implemented this modification would not be subject to any planning control. On the other hand the 'at level' extension, being subject to control, could produce various benefits through agreement such as highway infrastructure improvements and restrictions over the type and range of goods sold in the interests of protecting the viability of the town centre. Furthermore it would allow for an extended car park to be constructed to accommodate the extra traffic attracted to the store.
- In a recent appeal decision in Hatfield the Inspector gave weight to the fact that the extension was preferable to the fallback position of the mezzanine being implemented.
- There is a qualitative need for the proposed development. The store is in need of refurbishment which if implemented would result in a greater range and choice of goods for customers.
- There are no available alternative sites within the town centre to accommodate the store including extension.
- There is currently a lack of industrial related interest in the site. Recent marketing revealed there to be no interest. The development would provide up to 80 new jobs for local people and would allow for the re-use of a brownfield site.
- The development would not prejudice the supply of industrial related land in the Borough which exceeds demand.
- Re-allocation of the site would be appropriate given the need for environmental regeneration in an area where such improvements are encouraged.
- The proposal includes a number of measures designed to improve access by non-car modes, including:-
 - i) improved pedestrian crossing facilities at the site access
 - ii) provision of a cycleway
 - iii) the funding of an upgrade to existing pedestrian crossing on Belle Vue Way to accommodate cyclists, thereby linking into the town centre cycle network.
 - iv) A staff travel plan is proposed to reduce dependency on travel to the store by car

2.10 A planning agreement is offered incorporating the following benefits:-

- i) Various offsite highway works relating to improvements to Burn Road (Belle Vue roundabout and new signalised junction providing access to store.
- ii) Financial contributions to 516 bus service linking the site with outlying areas of the town and Elwick Village. This would amount to £25,000/year for a five-year period.
- iii) Upgrade of pelican crossing to toucan crossing facility - £50,000.
- iv) Contribution to the Longhill Industrial Estate CCTV scheme – 4 cameras - £85,365.72
- v) 40 space car park for local business accessible from Baltic Street
- vi) Targeted training and recruitment
- vii) Residual money from £400,000 budget for highway improvements at Burn Road/Belle Vue Way roundabout to be paid to Council for pedestrian related improvements.
- viii) New lay-by outside 'Fixings' on Burn Road.
- ix) Agreement not to complete the mezzanine floor.

Publicity

2.11 The application has been advertised by way of neighbour letters, site notice and press notice. To date, there have been 2 letters of no objection and 3 letters of objection.

2.12 The concerns raised are:

1. Proposed development would conflict with the policies of the development plan and the Tees Valley Structure Plan in that the site is allocated for industrial use; it would prejudice the development of a sequentially preferable site for retail development in the town centre; it would fail to maintain the viability of the town centre; there is a lack of evidence of need for the development.
2. There should be no access to the site from Baltic Street on grounds of highway safety and crime risk.

Following the reconsultation exercise one letter of no objection has been received. A further letter of comments has been received from 'Fixings' stating that the lay-by should have a loading/unloading max. waiting time of 10 minutes in order to limit its use. Enquire about possibility of a lay-by on the opposite side of the road as well. A letter of objection has been received to pedestrian and vehicular access points to the site from Baltic Street. A further letter of objection was received from HQ Engineering situated on Burn Road. The following concerns are raised:-

- 1 The site access is too close to the yard gates which will have a detrimental effect on business
- 2 Traffic congestion will be increased to an unacceptable level.
- 3 Accessibility of vehicles to and from the premises could be inhibited by the design of the new site access junction.

Copy letters C

The period for publicity has expired.

Following Members concerns the full history of publicity will be provided with an update report.

Consultations

2.13 The following consultation replies have been received:

Engineering Consultancy – Recommends a condition is imposed to remediate land if found to be contaminated.

Head of Public Protection & Housing – No objections

Northumbrian Water – Large car parks to be cleaned through oil interceptors.

Head Economic Development - Support the application.

Environment Agency – The Environment Agency raises no objection to the development but has stated that significant flood risk remains. They have therefore recommended that flood proof construction methods and a flood warning plan be put in place. They have also recommended that the emergency services be contacted with regard to any residual risk.

Ecologist – Condition should be imposed to remove Giant Hogweed and Japanese Knotweed from the site. A contribution towards Poplar tree replacement along Belle Vue Way is requested.

Head of Technical Services - The highway engineer has confirmed that there are no objections to the proposed development on highway safety related grounds subject to the various improvements that are proposed to be subject to a planning agreement.

With regard to the proposed lay- by proposed outside 'Fixings' the engineer has confirmed that a 10 minute maximum waiting time restriction could be imposed enforceable by the Council's Highway Division. With regard to the request for a second lay-by on the opposite side of Burn Road, the engineer would not be satisfied given the pedestrian safety hazard arising from a lack of crossing facilities in this location.

The proximity of the junction to HQ Engineering is acknowledged by the engineer. This matter is being discussed further with the applicant and the position will be updated at the meeting.

Planning Policy

2.14 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, Com8 and Com9. 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 and will seek to secure the reuse of vacant commercial properties including their use for residential purposes. Proposals for A3, A4 and A5 uses will be subject to policies Com12 and Rec13 and will be controlled by the use of planning conditions.

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

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

Ind5: States that business uses and warehousing will be permitted in this area. General industry will only be approved in certain circumstances. A particularly high quality of design and landscaping will be required for development fronting the main approach roads and estate roads.

Ind10: States that proposals for underground storage in this area will only be approved subject to criteria set out in the policy relating to risk to people, effect on the aquifer, watercourses and nature conservation sites, and amount and visibility of above ground structures. In these respects particular regard will be taken of advice received from the Health and Safety Executive, the Environment Agency, Hartlepool Water Company and English Nature as appropriate.

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.

Planning Considerations

2.15 The main planning considerations which need to be addressed are as follows:

- a) Does the proposal conform to the current Development Plan?
- b) Is there a quantitative and qualitative need for the development?
- c) Does the application site conform to the sequential approach?
- d) How will development impact on the vitality and viability of the town centre?
- e) Traffic and Transportation considerations
- f) Regeneration, Community & Environmental Issues
- g) Crime and disorder issues
- h) Landscaping
- i) Flood risk
- j) What is the impact on occupiers of nearby properties?

(a) The Development Plan

2.16. PPS6 sets out factors for consideration including:

- Demonstration of need
- Sustaining and enhancing the vitality and viability of town centres
- Optimising transport other than the private car
- to maintain efficient competitive and innovative retailing

The principal policy in the Local Plan 2006 is Com8 which states that the preferred locations for shopping developments are:

- within Hartlepool town centre as indicated on the Proposals Map
- edge-of-centre sites (as set out in policy Com4)
- the out of centre Victoria Harbour regeneration area, then
- other out of centre locations accessible by a choice of means of transport and which offer significant regeneration benefits

The existing Tesco site and the proposed extension site clearly lie outside the defined town centre boundary. The Tesco site was specifically excluded from the defined Town Centre by the inspector at the Local Plan inquiry. She did not accept

Tesco's request to widen further the town centre boundary to include land for a possible extension to the existing Tesco store. In her view the inclusion of the adjacent industrial land would serve no logical purpose in terms of a functional definition of the town centre. Moreover, the distance from the primary shopping area of this site and the adjoining Tesco store, together with the intervening dual carriageway and extensive non-town centre uses, indicated that this amounts to an out-of centre location for retailing as defined in national and strategic policy.

2.17 The land is also clearly identified for industry and the use for retailing is contrary to Policies of the 2006 adopted plan. The loss of the land in itself would not be critical.

(b) Qualitative and Quantitative need

Quantitative need

2.18 The applicant's agent DPP states that the existing Tesco store is trading at 30% below company average. Drivers Jonas acting for the Council consider that this would indicate that a quantitative and qualitative need for further floorspace does not exist, in accordance with findings of their own household survey undertaken in 2002.

2.19 In addition the applicants admit within their statement that there is a shortfall in capacity from new floorspace of £32m and £24.29m within the Study Area for convenience and comparison floorspace respectively.

2.20 This suggests that there is no quantitative need for the proposed development. Town centre development could therefore be likely to suffer if permission were granted and the store were to trade successfully.

Qualitative need

2.21 The applicants have argued that the proposed development will significantly improve the qualitative offer of Tesco. While it is accepted that the proposal will result in improvements to the store itself, the development will not improve the retail offer in Hartlepool as a whole given that most, if not all, of these goods are already available in the town centre, foodstores and retail parks. Notwithstanding this it is considered that Tesco is located too far from the primary shopping area to meet any qualitative need.

2.22 Despite the above, the results of the residents survey clearly indicate that Tesco is losing trade from within its own catchment area to the more modern facilities provided at Asda. The development of Morrisons on the former Greyhound stadium site is likely to result in further trade draw away from the existing Tesco store. The improvement of the Tesco facilities will increase competition with existing out-of-centre stores and could reduce the number of trips undertaken by the private car by drawing trade from the south of the town, trade which currently drives through the town to reach Asda and Morrisons. This reduction in the use of private car journeys if it occurs would accord with policy guidance contained in PPG13. However, the need for this development in terms of competition with existing stores and commitments is not considered to justify the proposal in qualitative terms.

2.23 With respect to the most recent retail statement, the applicant draws attention to the fact that their customers have indicated that they experience queues at the checkout, food shortages and congestion in the aisles as an indicator of qualitative need.

2.24 On the other hand Drivers Jonas independently commissioned Survey in 2002 found the Tesco store to be undertrading by more than £10 million. DJ indicate that the implication from this is that the store is not trading so significantly as to warrant the need for additional floorspace to mitigate against features such as queuing and stock shortages; these could be issues of store management rather than true indications of need.

Fallback position of mezzanine

2.25 In the event that planning permission is refused for the extension it would be possible for a mezzanine level floor to be completed within the store without the need for planning permission. (The company started work on a mezzanine before a change in the law to protect their fallback position). The mezzanine floorspace at up to 3189 square metres in area would exceed the floorspace of the proposed extension by up to nearly 600 square metres. Therefore it could be argued its impact on the viability of the town centre relative to the at level extension would be that much greater. This point is key to the applicant's case for granting permission for the proposed extension.

2.26 The question of whether it would be possible in reality to implement the mezzanine floor has been examined by the Council's structural engineers. The practicality of this conversion was questioned because the present construction of the roof structure with lattice trusses means that the freedom to move around on a mezzanine level would be significantly restricted. It was confirmed however that the lattice trusses could be replaced with traditional stanchions and beams sufficient to implement the mezzanine floor.

2.27 It is apparent that work has commenced on this project. Evidence has been provided that pile foundations have been installed. Furthermore some of the vertical steel columns and horizontal beams have been put in place. The Building Control Manager considers this work to be consistent with the provision of the mezzanine floor. It is therefore considered that notwithstanding recent changes in legislation that bring mezzanine construction under planning control, sufficient works have been undertaken prior to this time to allow the mezzanine to be completed without any planning control.

2.28 It is therefore considered that in the event of planning permission being refused for the 'at level extension' there would be a real prospect of the mezzanine floor being installed.

2.29 In support of their case the applicant refers to a previous appeal decision where an Inspector gave weight to the case for a store extension in preference to the fallback position of a larger mezzanine. The Inspector cited how the extension would enable the Council to exercise more control over the development.

2.30. Notwithstanding this Drivers Jonas, the Councils retail advisers consider that it would still be appropriate to impose a condition restricting the proportion of non-food sales in the event that the at-level extension is given planning permission. The applicant proposes a maximum non-food sales area of 3228 square metres (approximately 40% of sale). This is considered to be reasonable and can be controlled through condition.

(c) The Sequential Approach

2.31 On the basis of a lack of need, there is no need to then proceed to an assessment of sequential sites.

2.32 Nevertheless, there are alternative sites available for the type of retailing involved although this would not satisfy customer demand for a larger existing store. The Assessment does not explain fully why the proposed extension cannot be accommodated on other sites more accessible to the town centre.

(d) The Impact on Vitality & Viability of the town centre

2.33 The applicant's agent has provided an assessment of the likely impacts of the proposed superstore to accompany the application.

2.34 This assessment has been considered by Drivers Jonas who comment that whilst they would broadly agree with the assumptions that DPP make in respect of trading implications they would question where their actual proportion of trade diversions have come from.

2.35 The range of goods to be sold in the expanded area is likely to include those sold within the town centre including clothing, pharmaceutical and other comparison goods. Thus it is likely that the extension would have a detrimental effect on the vitality and viability of the town centre.

(e) Traffic and Transportation Considerations

Traffic Issues

2.36 At a meeting between Council officers, HQ Engineering and representatives of Tesco further discussion took place regarding highway related concerns raised by the company.

2.37 The company is to provide CCTV footage for consideration by the Local Planning Authority and Tesco demonstrating what they regard as the difficulties faced by large vehicles manoeuvring into and out of the premises. In the meantime Tesco have agreed to provide further up to date traffic survey related information for the locality.

2.38 The final comments of the highway engineers in respect of this further information will be provided in due course. It is hoped that these comments will be made available in an update report to Members.

2.39 It is however important for Members to note that the proposals have to date been the subject of close collaboration between the applicant and engineers. The further discussions are taking place within the context of existing substandard highway safety conditions along Burn Road given that there is already significant on-street parking congestion taking place outside HQ Engineering (see photographs attached to report). It is clear that this on-street parking serves to restrict visibility to drivers emerging from the HQ Engineering premises along with the width of the carriageway along Burn Road. In the event that planning permission is granted it will allow for the provision of a car park for local business' with the intention of alleviating parking congestion on Burn Road.

Public Transport

2.40 Public transport access to the existing store is currently provided through a bus stop within the site. The proposed development would include an improvement to the existing service through the provision of a bus lay-by. Under the terms of the proposed planning agreement there would be an annual contribution of £25,000/year over a 5-year period for the continued operation of the 516 bus service. However the allocation of this funding is receiving further consideration following the Committee discussion at the previous meeting.

Car Parking

2.41 There is no objection to the proposed level of car parking provision.

Pedestrian and Cycle Access

2.42 Improvements could be secured through the imposition of appropriate conditions and through the planning agreement. This would secure an upgraded crossing on Belle Vue Way, reservation of cycle links on to the site and financial contribution to general pedestrian improvements at the Burn Road/Belle Vue Way junction.

(f) Regeneration, Community & Environmental Issues

2.43 The proposal provides both a development and employment opportunity. It will have the direct benefit of securing the rejuvenation of a site that has been derelict for several years following the demise and closure of Jewson builders merchants in March 2000. The site is allocated for general industrial purposes in the adopted plan.

2.44 The extension of the store will create additional jobs. However given the lack of quantitative need these may have to be set against possible losses elsewhere. The planning agreement will secure targeted training and recruitment for the benefit of local people.

(g) Crime and Disorder Issues

2.45 Part of the proposed planning agreement involves a financial contribution

towards the provision of the Longhill Industrial Estate CCTV scheme equivalent to 4 cameras. It is considered that this will help to deter crime within the area and therefore the fear of crime that may be held by nearby land users.

(h) Landscaping

2.46 A condition can be imposed to secure landscaping improvements within and around the site. The applicant has agreed that a portion of the residual money to be made available for pedestrian improvement can be allocated towards the replacement of Poplar trees on Belle Vue Way.

2.47 It is important for Members to be aware that the introduction of the segregated left turn lane from Burn Road into Belle Vue Way would necessitate the felling of approximately 6 mature trees on this corner location. The trees in question comprise a combination of Willow and Poplar. This matter has been considered by the Council's ecologist and arboriculturist who are of the opinion that the trees in question would need to be removed for safety reasons over the longer term in any event. They raise no objection to the trees being removed but would advocate a mature replacement tree in this location by way of compensation.

(i) Flood Risk

2.48 The points raised by the Environment Agency have been discussed with the Council's drainage engineer. He notes that the applicant's risk assessment has made several assumptions in order to derive flood levels. He considers that this has led to a conservative over-estimation of flood levels compared to actual observed historical events. He considers that flood waters would disperse over a wide area rather than concentrate on the Tesco site and would not place undue pressure on emergency services resources or in-store evacuation procedures.

2.49 The applicant has confirmed that it would accept conditions to secure flood protection measures and a flood protection plan as appropriate for the site.

2.50 On this basis the development is considered to be acceptable taking into account flood risk.

(i) The Impact on Occupiers of Nearby Properties

2.51 There are no residential properties within close proximity of the application site. In addition it is not considered that any of the neighbouring uses will be significantly adversely affected as a result of the development.

Overall Conclusion

2.52 It is recognised that the proposed extension would have a positive impact in terms of the regeneration of an otherwise vacant site and also the likely benefits in terms of employment generation.

2.53 However the proposed development would result in an extension to the existing retail provision in what is regarded as an out-of-centre location. This would

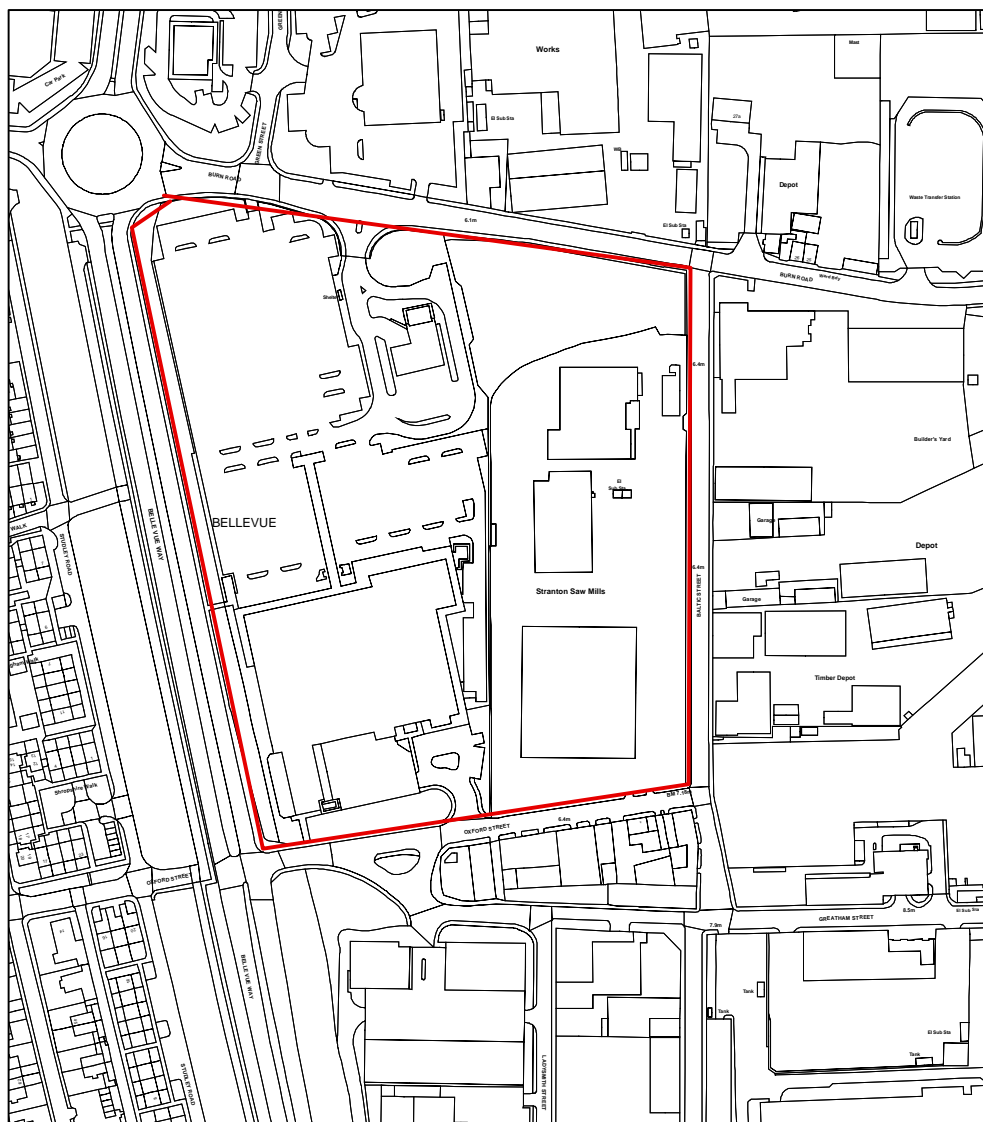
potentially undermine the strategy for retail development set out in the Local Plan which recognises the importance of protecting and promoting the town centre. The applicants have failed to demonstrate that there is a need for the proposed facilities in quantitative and qualitative terms. They have also failed to show why the goods proposed for sale could not be sold from the town centre, in accordance with the sequential approach.

2.54 However it is critical in this case that the company has a fall back position of resorting to the mezzanine floorspace without need for permission. This would result in the provision of more floorspace, with potentially more damaging implications on the town centre trade. Further more the opportunity for the various planning gains for the town would be lost. It is therefore likely that subject to the outcome of outstanding discussions on highway and public transport related matters the recommendation will be minded to approve subject to a decision by the Secretary of State not to call in the application.

RECOMMENDATION – Update to follow







THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<p>HARTLEPOOL</p> <p>BOROUGH COUNCIL</p>		<p>DRAWN</p> <p>GS</p>	<p>DATE</p> <p>17/10/06</p>
		<p>SCALE</p> <p>1:2000</p>	
<p>Department of Regeneration and Planning</p> <p>Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT</p>		<p>DRG.NO</p> <p>H/2005/5486</p>	<p>REV</p>

No: 3
Number: H/2006/0338
Applicant: Mr W Morgan
Agent: B3 Burgess 3rd Floor Grainger Chambers 3-5 Hood Street Newcastle Upon Tyne NE1 6JQ
Date valid: 03/05/2006
Development: Erection of a 50 bed residential carehome and 4 blocks of apartments comprising 30 dwellings for occupation by people aged over 55
Location: On The Corner of The Wynd Wynyard Billingham

Introduction

3.1 At the meeting of the Planning Committee on 30 August 2006, Members decided to grant planning permission for the above development subject to a planning agreement and various conditions.

3.2 The purpose of this report is as follows:-

- i) to notify Members that the validity of the decision on this application has been challenged by a local resident, who requests that the application be reconsidered by the Committee. If not the resident will seek leave for judicial review.
- ii) to give consideration to the issue in question raised by the local resident
- iii) to recommend that the Committee re-affirms its original decision to approve the planning application subject to a planning agreement and conditions.

For background information the relevant planning report and committee minutes are attached as is the resident's letter.

The grounds for the challenge

3.3 The local resident's allegation is essentially that the Local Planning Authority failed to give due regard to Policy Hsg 12 of the Local Plan in arriving at its decision. Policy Hsg 12 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.

3.4 The resident states that at the outset of the Committee's consideration of the application, Councillor Kaiser announced that there was no longer a bus service serving Wynyard. However he alleges that aside from the Chairman remarking that if planning permission were granted the situation might then be reviewed, there was no further reference to the bus service situation during the debate. Policy Hsg12 indicates that proposals will be approved provided that certain criteria can be met

including that the development should be conveniently located for access to public transport.

3.5 It is clear from the officer report that both the applicant and officer considered public transport to be relevant and that it was written on the understanding that there was a public transport service available.

3.6 It is therefore alleged that in the absence of a bus service serving the Wynyard area that a decision was reached on the application that was in conflict with Local Plan Policy and therefore contrary to the duty of the Authority to determine the application in accordance with the development plan.

3.7 The Authority should therefore re-consider the application in light of the terms of Policy Hsg12 and applying the requirements of Policy Hsg12 should refuse the application.

Consideration of the grounds for the challenge

3.8 The Council's Highway Engineer has confirmed that at present there are no scheduled bus services operating through Wynyard village or running along the A689 between Fishburn and A19. The bus service, which previously ran through the village was the 269. It is understood to be unlikely that this service will be re-introduced.

3.9 However it is the intention of Stockton and Hartlepool Borough Councils to jointly operate a new bus service known as Community Lynx Transport. It is anticipated that this scheme will become operational from December 2006. Funding is currently only guaranteed for one year.

3.10 The main aim of the scheme is to provide a demand responsive bus service to residents in rural communities that do not have access to a normal scheduled bus service or for residents who cannot use them. The busses are to be low floor and wheelchair accessible. Wynyard village is to be included in this scheme.

3.11 To use the service village residents would need to become members. Membership would be free and available to all residents. The price of a journey will then vary between £1.50 and £2.00 one way subject to distance.

3.12 It is anticipated that the service will operate from Monday to Friday from 9.00am to 9.00pm and on Saturday and Sunday 3pm to 9pm.

3.13 The service has been set up primarily to assist passengers in accessing health services in the Tees Valley such as hospital and doctor appointments. The service can also be used to access shopping and leisure facilities although priority will be given to health related journeys. It may not be used for social journeys such as visits to the pub or the cinema.

3.14 Residents of the care home and apartments will be able to use the service providing they become members.

3.15 It should also be noted that the applicant has proposed a mini-bus service as part of the Travel Plan for the development. It is intended that this mini-bus service will be made available to transfer staff to and from the site. The applicant has also agreed to make this service available to residents of the development (both care home and apartments) in connection with social visits. This requirement will be secured through the provisions of a Section 106 agreement.

3.16 The Highway Engineer considers that subject to the introduction of the travel plan and the Lynx Community service, the development would be accessible.

Conclusion

3.17 Taking the above factors into consideration and acknowledging as before that Wynyard is not a sustainable community, it is considered that the proposed development would be conveniently located for access to public transport, shopping and other community facilities and would therefore serve to enhance the sustainability of the village. Whilst the forthcoming Lynx service could be less flexible than a scheduled bus service in terms of the range of specific services that would be accessible at a given time, it is a door to door operation and therefore provides greater convenience in this regard. The development is therefore considered to be consistent with the objectives of Policy Hsg12 of the Local Plan.

3.18 It is therefore recommended that Members reaffirm the decision to grant planning permission for the development in accordance with conditions and planning agreement terms specified in the minutes including the additional proviso that the mini bus service is made available to residents of the proposed care home and apartments for any type of socially related visits to nearby centres.

(PLANNING CTTEE 30.8.06 APPENDIX)

No: 1
Number: H/2006/0338
Applicant: Mr W Morgan
Agent: B3 Burgess 3rd Floor Grainger Chambers 3-5 Hood Street Newcastle Upon Tyne NE1 6JQ
Date valid: 03/05/2006
Development: Erection of a 50 bed residential carehome and 4 blocks of apartments comprising 30 dwellings for occupation by people aged over 55
Location: On The Corner of The Wynd Wynyard Billingham

The Application and Site

1.1 Detailed planning permission is sought for a 'care village' consisting of the erection of a nursing home and apartments for people aged over 55 on a greenfield site to the south of the Wynd.

1.2 The nursing home would comprise a split level 2/ 3 storey building incorporating various ancillary facilities such as laundry cleaning, communal lounge and dining areas. A communal 'village room' would be provided and made available to apartment residents. The building would comprise frequent changes in roof level and elevation profile. Contrasting building materials would also be utilised including brick, render and timber cladding.

1.3 The care home would take the form of a V-shaped building fronting towards the junction with the Wynd.

1.4 The apartments would be split into four blocks, 2 of 3 storey height and 2 of 2 storey height. Each would comprise 2 bedrooms

1.5 The development would be served by a communal parking area totalling some 61 spaces. Land is set aside to provide a further 9 net additional spaces should they be required in the future. The nursing home and apartment blocks are separated by the car parking area and central grassed communal area.

1.6 There would be provision within the site for larger service vehicles such as refuse wagons to manoeuvre without needing to reverse onto the Wynd.

1.7 The applicant's agent has confirmed that his client's vision for Westgate Care Village is a "Total Care Concept" which everyone residing in the village will become a part of. The care home, apart from providing a 24 hour care to its own residents will also provide a 24 hour emergency care service to the residents in the over 55 apartments who may be in need of immediate help or assistance.

1.8 As well being able to access the care homes staff, the apartments residents will also be able to use the Care Homes communal facilities. This maybe a trip to the hairdressers, using laundry facilities or a social visit to the communal lounge which forms the focal point of the village garden.

1.9 The site is accessed from 2 locations, The Wynd and from the loop road leading off The Wynd and round to the Wynyard Woods area.

1.10 The site slopes southwards towards adjacent woodland. Sectional details have been produced showing that part of the site is to be excavated in order to help reduce visual impact, the nursing home would be sited behind a planted embankment.

1.11 The proposal is almost identical to and follows in the wake of a previously withdrawn application. The principal difference between the two is that the current application accommodates additional parking and manoeuvring space and no longer incorporates footpath proposals through the adjacent woodland to the south.

1.12 In support of the planning application the applicant makes the following points:-

1. There is a bus stop 200 yards from the site which has a 2 hourly service.
2. A dedicated mini-bus service taxi service will be provided for staff.
3. Provision is made within the site for 9 further spaces (net) if found to be necessary.
4. There will be a daily delivery of food and office supplies to serve the nursing home. These will arrive in transit sized vehicles.
5. Demographic information suggests a demand for this type of development.
6. Market evidence suggests a deficit of such care facilities in the Teesside area.

1.13 The applicant has provided an access statement which includes reference to the following in support of the application:-

1. Within 300metres of bus stop adjacent to village shops.
2. Provision of disabled parking bays.
3. Smooth surfacing to car park
4. Footpaths to be illuminated at night
5. Level threshold to buildings and all ironmongery will be easy to use and able to accommodate people with wheelchairs.

Publicity

1.14 The application has been advertised by way of neighbour letters (12), site notice and press notice. To date, there have been 77 letters of objection raising the following points:-

1. There are no facilities / lack of infrastructure to support this type of development. The development would be unsustainable. There would be an over-dependence on private cars. Public transport provision is poor. The proposed mini-bus service will not be able to cater for all staff.

2. A brownfield site should be selected.
3. Will make achievement of brownfield target more difficult. Development should be located at Wynyard Park
4. There is no need for this development. It is not allocated for such development in the Local Plan.
5. Additional traffic will result in noise disturbance.
6. There is insufficient parking space available which will lead to overspill parking on the Wynd. Traffic will back up on the A689. Site is on a double bend with restricted visibility. It is an accident black spot. It would remove a green semi-rural area.
7. The development is too large and out of keeping with the area.
8. Withdrawing and resubmitting the application is a tactical move on the part of the applicant.
9. Wynyard will become another Ingleby Barwick. Wynyard is already overcrowded.
10. Wildlife and trees will be destroyed. Protected species survey should be undertaken. Wet woodland is a priority under UK Biodiversity Action Plan. The development is inadequately separated from trees.
11. This is not part of the original plans for the site.
12. Lack of evidence of need for the development.
13. Lack of provision for cycle parking.
14. The site is within a Special Landscape Area.
15. There would be 3 road junctions occurring along some 65 metres of the Wynd, which would result in a dangerous highway situation.
16. Lack of scope for meaningful landscaping.
17. The limits of development are identified for housing. This is a business area and so is a departure.
18. How is it possible to ensure that the development would be used by the over-50s only?
19. Will adversely affect light to buildings and privacy.
20. The development would threaten to spoil the attractiveness of the location for inward investors therefore damaging the economic role of the estate. The exclusivity of the estate would be spoilt.
21. It would establish an undesirable precedent.
22. It would lead to the loss of the village's identity removing open green space.
23. Lack of bin storage areas
24. No open space for formal or informal use
25. Additional demands on security
26. Cooking odours from the facilities would cause a nuisance to residents.
27. Disturbances from construction work.
28. Property devaluation.
29. The application should be called in by Secretary of State.
30. An environmental statement should be submitted, the landowner having failed to obtain permission to develop the retail site on grounds of lack of need is now attempting to create the demand for it.

Copy letters G

The period for publicity has expired.

Consultations

1.15 The following consultation replies have been received:

Head of Technical Services – Considers parking provision, junction visibility and servicing provision to be adequate taking account of the nursery proposal on the opposite side of the road. Cycle parking provision should be made. A travel plan will help to relieve vehicular movements to the development.

Head of Public Protection – No objection

Engineering Consultancy – Recommends imposition of condition requiring appropriate remediation of contamination if found to be present.

English Nature – No objection. Proposal is unlikely to affect protected species. Do not consider there to be sufficient likelihood of protected species being present. Tree removals appear to be limited in extent and seen to involve relatively immature specimens.

Elwick Parish Council – Object to development . Wish for the matter to be called in.

Hartlepool Access Group – An access statement needs to be provided.

Northumbrian Water – No objections

Stockton Borough Council – No comments

Grindon Parish Council – lack of evidence of need; density too great; land should be used for residential development not commercial use. Difficult site to service safely; tree loss; 3 storey development unacceptable; would be better to place nursery on this site; design out of keeping.

Planning Policy

1.16 The following policies in the adopted Hartlepool Local Plan 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.

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.

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.

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.

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.

Rur2: States that housing and employment land is identified within the Wynyard limit to development but that expansion beyond that limit will not be permitted.

Tra8: States that safe and convenient pedestrian routes linking new housing to local facilities and amenities should be provided.

WL7: States that the Borough Council will seek to minimise or avoid any significant adverse impact of a development on the nature conservation importance of a site through the use of planning conditions or obligations where appropriate.

Planning Considerations

1.17 The main issues for consideration are relevant policy matters including the greenfield nature of the site and housing numbers, highway safety related matters, residential amenity standards, visual impact and nature conservation matters.

Policy issues

1.18 The proposed development site lies within the Wynyard limit to development as defined in the adopted Local Plan. It does not have special landscape designation nor is the area identified as a protected open space (plans showing the protected open space and limits to development are appended). As proposed, it is considered the proposal as a whole constitutes a residential institution (Class C2) use as opposed to a separate care home and residential development. The normal test and guidance in relation to residential development which states that in considering new residential development brownfield sites should normally be prioritised ahead of greenfield sites does not therefore apply.

1.19 Notwithstanding the above, the site in question is clearly a Greenfield one. There are few brownfield locations within the Wynyard Estate. One such location is the Old School site, further along The Wynd and within Stockton Borough Council's area. This site is in a separate ownership and is understood to be smaller in area than the application site. It is currently the subject of an application for residential development by an alternative developer and is not therefore available.

1.20 The applicant confirms that two alternative sites were examined prior to this application being made. The first site was next to the monument situated off the Wynd and the second adjacent to the Fairways development currently being developed by Charles Church. The two sites were deemed to be further away from local shops and therefore discounted.

1.21 The application site lies approximately 200 metres from the village shops and as such would be reasonably accessible to residents of the development.

1.22 A number of objectors have suggested the development should be located at Wynyard Park to the north of the A689. This is however considered inappropriate given that the area is allocated for industrial development and not in close proximity to local facilities.

1.23 It is considered that the proposed site is within a sustainable location. It provides an opportunity for elderly relatives to locate near to families already resident at Wynyard. This would contribute to reducing the need for and duration of car journeys. Taking the above factors into account the proposed development is considered to be acceptable in locational terms.

1.24 The proposed development is intended to operate as a 'close care' scheme whereby certain services available to residents of the care home would also be provided to apartment residents. These services include assisted bathing for residents with restricted mobility and laundry work. There will also be scope for residents to interact with one another within the communal room adjoining the nursing home. It is suggested that this interrelationship be protected in the long term via a S106 agreement, if Members are minded to approve the application.

1.25 The application is supported by a report prepared by GLP care sector consultants. This has identified a market for residential and nursing care within the Wynyard area. In general demographic terms the population is ageing and as such it is considered likely that the demand for close care provision will strengthen over time.

Highway safety

1.26 The Council's highway engineer has not objected to the proposal on highway and traffic safety related grounds. He considers that provision for car parking within the site appears to be adequate and that junction visibility would be acceptable whilst taking into account the children's nursery proposal on the opposite side of the Wynd. He confirms that adequate provision has been made for larger vehicles servicing the site to manoeuvre. He states that the proposed travel plan should become operational prior to development being brought into use. This arrangement consisting of a dedicated minibus service for staff can be secured through a planning agreement. Provision for cycle parking will be required and can be secured through a planning condition.

Residential amenity

1.27 In terms of the relationships between the proposed buildings themselves, for the most part they meet the minimum separation distances set out in the Local Plan. The separation between specific rooms serving the middle two apartment blocks is at, 15 metres, below the normally required standard. It is however possible to overcome this concern through a requirement for obscure glazing to serve the kitchen windows in the respective elevations. Given the inter-related nature of this development it is considered that a less strict application of standards would be justified.

1.28 Cross sectional details through the site have been produced to illustrate the relationship between the proposed building and existing buildings on Amerston Close to the west and Spring Bank Wood to the south. These show that following excavation of site levels the nursing home will be sited at a lower level than nearby properties on Amerston Close. The separation between the two areas is in excess of Local Plan standards and as such any adverse impact on light or privacy would not be anticipated. There would be a separation distance of some 30 metres between the apartment building and the nearest properties on Spring Bank Wood, through the intervening belt of mature woodland. The relationship between the sites is considered to be acceptable.

Visual impact

1.29 The applicant has incorporated a variety of design features including variation in elevation profiles, rooflines and building materials.

1.30 These attributes are considered to add interest to the scheme and give the development a high quality appearance in keeping with the location. Whilst the three storey apartment buildings would be uncharacteristic of the locality, their impact would be softened behind the nursing home and against the woodland backdrop. A landscaped central square would help to break up the development.

Nature Conservation

1.31 The proposed development has been examined by English Nature who raise no objection to the proposal. Two trees would be lost by virtue of the siting of one of the apartment blocks. The Council's arboriculturist has raised no objections, however recommends a condition requiring general tree protection measures to be instigated during the course of the construction period. The scheme is considered to offer scope for an attractive landscaping scheme around the perimeter of the site.

Other matters

Noise and cooking odours

1.32 The Head of Public Protection has raised no objection to the scheme on these grounds

Security

1.33 Concerns with regard to additional demands on site security are not considered to be a sustainable reason for refusal.

Restrictions over the occupation of the apartments

1.34 In the event that planning permission is granted this could be made subject to a planning agreement restricting the occupation of the apartments to residents aged 55 and over. The agreement is a legally enforceable provision. The restrictions would be made apparent to prospective residents through the conveyancing process just as any other restrictive covenant would be. The agreement could be subject to a requirement whereby the Local Planning Authority are informed of conveyancing details allowing the occupation of the units to be monitored. Similarly the agreement could ensure that the care regime for residents of the apartments is available at all times.

Precedent

1.35 Each development proposal would be assessed on its own merits and as such precedent is not considered to be an issue.

Request for the application to be called in

1.36 There has been a request from a number of residents for the application to be called in for consideration by the Secretary of State. The development is not considered to be a departure from the Local Plan and as such the Local Planning Authority would not normally notify the regional Government Office. In this case, however, the Government Office has requested details of the application for its consideration. Details have been provided together with a copy of this report however, there has been no indication at this stage that the Secretary of State seeks to call in the application.

Environment Impact Assessment Regulation

1.37 The EIA regulations list categories of development which may need to be subject to a formal assessment subject to scale and sensitivity of location. The nearest category of land use listed in the regulations to what is proposed in this case would be an urban development project. It is not certain that the development could be accurately described as such given its rural location. The regulations indicate where such developments are proposed on sites of more than 0.5 ha the Local Planning Authority should take a view as to whether EIA is required (A screening opinion). However, with respect to this category of development the guidance states that EIA is more likely to be required if the site area is more than 5ha, it would provide more than 10,000m² of commercial floorspace or would have significant urbanising effects in a previously non urbanised area e.g. a new development of more than 1000 dwellings. None of the above criteria would be met in this case and as such it is considered unreasonable to request an Environmental statement.

Construction related disturbance/property devaluation

1.38 Construction noise would not be a sustainable reason on which to refuse the application given its short term nature. Concern with regard to property devaluation would not be a material planning consideration.

Drainage

1.39 Northumbrian Water has confirmed that it has no objections to the proposals.

Bin storage

1.40 It is considered that bin storage areas can be agreed through the imposition of a planning condition.

Conclusion

1.41 This, like the application for the nursery later on this agenda, is not a straightforward proposal. While the site lies within the limits to development it is on greenfield land not specifically identified for development. It is however considered that there are material considerations which would support this proposal. It is considered that the following is relevant.

- 1 Wynyard is not a sustainable community

- 2 The use which is considered to be a Class C2, residential institutional, use is most appropriately found in a residential area and offers the opportunity of broadening the range of facilities available making the community more varied and sustainable including reducing the need for and duration of car journeys.
- 3 There appears to be no brownfield sites available at Wynyard.
- 4 The site is relatively close to the local services including village shops and public house.
- 5 The scheme is of high quality and should complement other developments at Wynyard.

Approval is therefore recommended.

RECOMMENDATION – Approve subject to the following conditions and to a planning agreement 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.

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 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.
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.

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 carehome 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 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.
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.

CONTACT

Steven Heath
E-Mail: sheath@jacksons-cpl.com

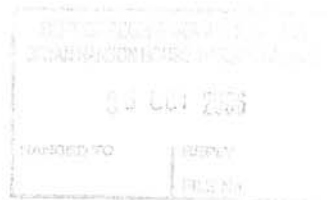
OUR REF
YOUR REF

SCH/99325-1/BLW



4 October 2006

Mr J A Brown
Chief Solicitor
Hartlepool Borough Council
Civic Centre
Victoria Road
HARTLEPOOL
TS24 8AY



Dear Sir

Application for Proposed Development of 50 bed Residential Care Home and 4 Blocks of Apartments comprising 30 Dwellings for Occupation by People aged over 55 – The Wynd, Wynyard

Application Reference H/2006/0338

We act for Mr R Bussey of 15 Amerston Close, Wynyard TS22 5QX. Our client is aggrieved at a decision of your council's Planning Committee at its meeting on Wednesday 30 August 2006. At that meeting the Committee resolved to grant planning permission for the above development subject to the completion of a Section 106 Planning Obligation.

At its meeting the Committee considered an officer report setting out the background to and issues relating to the application. The report incorporated by reference supporting documents submitted with the application, together with consultation responses.

Under the heading "Policy Issues" the report, at paragraph 1.18, included the following sentence:

"As proposed, it is considered that the proposal as a whole constitutes a residential institution (Class C2) use as opposed to a separate care home and residential development."

Under the heading "Planning Policy" it was stated at paragraph 1.16 that policies listed thereafter from the adopted Hartlepool Local Plan were relevant to the determination of the application. These policies included Policy Hsg12. Policy Hsg12 was summarised in that Report as follows:

"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."

MEMBERS

KEVIN FLETCHER
GEOFF SKEOCH
SIMON CATTERALL
TONY WENTWORTH
ROSEMARY YOUNG
ANDREW TWINHAM
NIGEL KIDWELL
STEPHEN WILES
MARK FOSTER
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REGISTERED IN ENGLAND AND WALES NO. 01305931. REGULATED BY THE LAW SOCIETY



Under the heading "The Application and Site" the Report states at paragraph 1.12:

"In support of the planning application the applicant makes the following points:-

1. There is a bus stop 200 yards from the site which has a two-hourly service
2."

At paragraph 1.13 the Report states:

"The applicant has provided an access statement which includes reference to the following in support of the application:

1. Within 300 metres of bus stop adjacent to village shops.
2. ..."

At the outset of the Planning Committee's consideration of the application, Councillor Kaiser, elected representative for Elwick Ward, announced that there was no bus service serving Wynyard. It is our understanding that this bus service was discontinued at the end of July. It was apparent to our client that this was information not already held by the council officers or members of the planning committee and was a surprise to them. The Chairman, after momentary hesitation, responded with words to the effect that if this planning permission was granted, the bus service provider might reconsider its decision. During the meeting our client addressed the Committee and emphasised the lack of a public bus service serving Wynyard or the site, however there was no further reference to the bus service during debate on the application.

Policy Hsg12 is contained in the Hartlepool Local Plan which was adopted in April 2006. Accordingly, the Plan can be assumed to be up to date and relevant. A copy of Policy Hsg12 is attached to this letter and it includes the following words:

"PROPOSALS FOR RESIDENTIAL INSTITUTIONS FALLING WITHIN CLASS C2 OF THE TOWN & COUNTRY PLANNING (USE CLASSES) ORDER 1987 (AS AMENDED) AND FOR HOSTELS WILL BE APPROVED PROVIDED THAT THERE IS NO SIGNIFICANT DETRIMENTAL IMPACT ON THE AMENITY OF OCCUPIERS OF ADJOINING AND NEIGHBOURING PROPERTIES OR ON THE CHARACTER OF THE SURROUNDING AREA, AND SUBJECT TO:

- i. THE DEVELOPMENT BEING CONVENIENTLY LOCATED FOR ACCESS TO PUBLIC TRANSPORT,"

It is apparent that the convenient accessibility of public transport was considered relevant both to the applicant and to the Planning Officer. As is indicated above, the nearby location of a bus stop is referred to twice in the description of the application.

When considering an application for planning permission, a Local Planning Authority has a statutory duty to have regard to the development plan (Section 70 Town &

Country Planning Act 1990). When determining an application for planning permission a Local Planning Authority has a further duty where regard is to be had to the development plan to make that determination in accordance with the plan unless material considerations indicate otherwise. (Section 54A 1990 Act and Section 38 Planning & Compulsory Purchase Act 2004.)

It is clear from the officer report that both applicant and Planning Officer considered public transport to be relevant. It is clear that this is indeed the case from the contents of Policy Hsg12. The officer report was written on the understanding and basis that there was a public transport service available and that there was a bus stop nearby the application site. This was incorrect and the correct position was brought to the attention of the Planning Committee by our client. There was then no proper or reasoned consideration of this information and the implications that it had for the application of development plan policies to the application before the Committee. The only consideration during the Committee Meeting was the comment of the Chairman to the effect that if the permission was granted the service provider might reconsider. This comment was made without reference to the service provider and with no knowledge as to whether there was any prospect that what the Chairman said might be correct.

It is our client's view that the decision of the Planning Committee that permission should be granted on the application was made without a full and proper consideration of the application in the light of Local Plan Policy Hsg12 with full knowledge of the relevant facts. This led to the Committee coming to a decision which was in conflict with the terms of the development plan policy and therefore contrary to the duty of the authority to determine the application in accordance with the development plan.

Accordingly, in the light of the above, we are instructed to advise you that our client requires your authority to look again at the application for planning permission and the Committee's earlier decision. In doing so, your authority should consider the application in the light of the terms of Policy Hsg12 and in the light of the facts relating to public transport provision, which are that there is none. It is our client's opinion that a proper application of Policy Hsg12 means that your authority should refuse the application for planning permission.

As we confirm above, we act for Mr Bussey in this matter and any correspondence should be addressed to this firm using the reference given at the head of this letter.

The applicant, Mr W Morgan, is an interested party in this matter and so a copy of this letter has been sent to the applicant's agent, B3 Burgess, Third Floor, Grainger Chambers, 3-5 Hood Street, Newcastle upon Tyne NE1 6JQ.

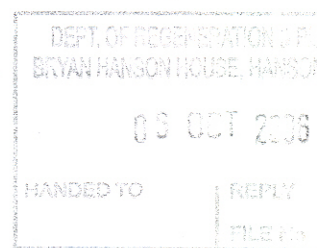
Please confirm, within 14 days of the date of this letter, that your authority will take the steps set out above, ie reconsider the application in the light of the terms of Policy Hsg12, taking account of the correct facts relating to public transport. Please also, when confirming that this will be done, indicate the proposed date for this matter to be taken back to the Planning Committee for reconsideration.

Application Reference H/2006/0338

We should be grateful if you would acknowledge receipt of this letter.

Yours faithfully
JACKSONS C&PL

cc: Mr R Bussey
Applicant's Agent
Director – Regeneration & Planning, Hartlepool Borough Council



HOMES AND HOSTELS

- 7.1 Residential institutions including nursing homes and residential care homes are appropriately located in residential areas convenient for access to public transport and local facilities. They can be provided as new buildings or conversions of larger detached or semi-detached dwellings. There has been an increase in the number of such developments over the last few years, primarily as a result of the 'Care in the Community' policies. It is important to ensure that the concentration of such uses does not lead to a deterioration in the character of particular areas or of the amenity of adjoining householders in terms of additional traffic generation, noise, visual intrusion, loss of privacy and overshadowing.
- 7.2 Temporary or permanent housing (hostels) providing accommodation for the homeless should also be located in areas well served by public transport and close to community facilities. Care needs to be taken in the location of some hostels as these can give rise to concerns in occupants of neighbouring properties relating to the fear of crime. Appropriate account will have to be taken of such concerns.

POLICY Hsg12

HOMES AND HOSTELS

PROPOSALS FOR RESIDENTIAL INSTITUTIONS FALLING WITHIN CLASS C2 OF THE TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER 1987 (AS AMENDED) AND FOR HOSTELS WILL BE APPROVED PROVIDED THAT THERE IS NO SIGNIFICANT DETRIMENTAL IMPACT ON THE AMENITY OF OCCUPIERS OF ADJOINING AND NEIGHBOURING PROPERTIES OR ON THE CHARACTER OF THE SURROUNDING AREA, AND SUBJECT TO:

- i. THE DEVELOPMENT BEING CONVENIENTLY LOCATED FOR ACCESS TO PUBLIC TRANSPORT, SHOPPING AND OTHER COMMUNITY FACILITIES,
- ii. AN APPROPRIATE AMOUNT OF CAR PARKING (SEE SUPPLEMENTARY NOTE 2) BEING PROVIDED WITHIN THE CURTILAGE OF THE DEVELOPMENT WITHOUT CAUSING UNDUE DISTURBANCE ON THE SITE, WITHIN THE BUILDING OR TO ADJOINING RESIDENTIAL PROPERTIES, AND
- iii. THE PROVISION OF AMENITY SPACE TO MEET THE NEEDS OF RESIDENTS COMMENSUATE WITH THE SIZE AND CAPACITY OF THE BUILDING.

The Wynd - Residential Care Home



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 22/6/06
	SCALE 1:2500	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H-2006-0338	REV

No: 4
Number: H/2006/0472
Applicant: Mr G Raynor ELDON GROVE HARTLEPOOL TS26 9LY
Agent: 18 Oakland Avenue Hartlepool
Date valid: 03/07/2006
Development: Erection of a attached double garage to rear
Location: 22 ELDON GROVE HARTLEPOOL

The Application and Site

4.1 22 Eldon Grove is a large detached Victorian dwelling with a large rear garden, which has mature trees and dense shrubs along the rear shared boundary.

4.2 There is an existing garage at the side of the property to be demolished to allow access to the rear of the property and the new garage.

4.3 There is a (approx) 1.5m high close boarded fence along the boundary with the neighbouring property at 20 Eldon Grove which lies to the north. 20 Eldon Grove has a detached garage along the boundary. Historically the application site also had a detached garage along this side boundary. The house at 20 Eldon Grove is set approx 7.2m off the boundary and slightly back from 22 Eldon Grove. The boundary of the other neighbouring property 24 Eldon Grove is some 10m from the house at 22 Eldon Grove.

4.4 Opposite the application site is Eldon Grove Sports Centre car park. The area is a mix of large detached and semi detached residential properties, there is also a primary school, sports centre and tennis club in close proximity.

4.5 The proposed garage is to be positioned to the rear of the property in an unusual position. It will be attached to an existing utility room on the far side of the house closest to 20 Eldon Grove. The proposal is slightly offset from the shared boundary with at 20 Eldon Grove. An amended plan was submitted to avoid any overhang of guttering. The proposed garage will have a projection of approx 10m from the rear of the utility room, with a height of approximately 4.8m. The pitched roof will fall away from the shared boundary. Plans showing this will be displayed at the meeting.

Publicity

4.6 The application has been advertised by way of neighbour letters (6). To date, there have been 2 letters of no objection and 3 letters of objection from members of the same household, 20 Eldon Grove (copy letters B).

The concerns raised are:-

- overhang of guttering,
- visually intrusive/light pollution
- light falling upon south-facing door will be reduced by 50% to 60%

- it is undesirable on environmental grounds for cars to be driven in the back garden of a house, would decrease enjoyment of back garden by reason of noise and fumes
- size of garage is excessive and is out of keeping with the neighbourhood
- will reduce light to all back rooms
- side location would be preferable
- the garage is larger than a double garage and excessive.

Copy letters B

The period for publicity has expired.

Planning Policy

4.7 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.

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

Planning Considerations

4.8 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan and the impact of the proposal in terms of possible overlooking, overshadowing and/or poor outlook. The appearance of the proposal in relation to the main dwellinghouse and the street scene in general will also be assessed. It should be noted that this application would have normally been considered under the scheme of delegation. However Councillor Hall has asked that the application be considered by Committee having regard to concerns about possible loss or reduction in amenity for local residents.

4.9 It has to be accepted that the proposed garage is somewhat unusual in terms of its siting and access arrangements. However the question which needs to be asked is will this cause a detrimental effect to others?

4.10 Garages in back garden situations are not unusual and historically there appears to have been a garage in this location albeit accessed down the side of the property rather than through the back garden. Indeed the garage adjoins a garage on the neighbouring property 20 Eldon Grove. Vehicles clearly enter the back

garden of that property. The proposed garage doors are approx 13m from the house at 20 Eldon Grove and face into the application site. Further vehicles accessing the proposed garage will be shielded from the objectors property by the garage itself, a substantial building and the objectors own garage. In these circumstances it is considered that it would not be possible to sustain an objection to the proposal in terms of concerns about noise, disturbance or light pollution to that property. Given that the back of the application site is over 60m long and the other neighbouring property 24 Eldon Grove is set a significant distance from the proposed garage is considered that such concerns in relation to other neighbouring properties also could not be sustained.

4.11 The proposed garage is large projecting in small part down the side of the property and the boundary with 20 Eldon Grove – it is 10m long by almost 4.8 high. The majority of the garage is however set behind the garage at 20 Eldon Grove. Guidelines in the Local Plan suggest that single and two storey extensions can be provided at the rear with little effect on neighbours. The guidelines acknowledge that extensions close to boundaries can cause problems. They specifically allow for a 2.5m single storey extension on a shared boundary with an attached neighbour. Larger extensions reflecting individual circumstances are allowed. In this case the unshielded part of the extension is approx 4.2m long along the boundary but is offset from the house at 20 Eldon Grove by 7.2m.

4.12 Photographs will be displayed at the meeting showing the relationships and in particular shadowing from the existing garage at 20 Eldon Grove on that property. It is clear that the existing garage shadows the garden but that winter sun does reach the house by virtue of the gap in front of the garage. It has to be acknowledged that the proposed garage will close this gap and that for a part of the afternoon in winter the shadowing of the rear of 20 Eldon Grove will increase. However it is not considered that this could be sustained as a reason for refusal.

4.13 It is clear that the proposed garage has been designed to reflect the character of the existing house.

4.14 In all the circumstances of this case it is not considered that the garage would be out of keeping in the street scene or in relation to neighbouring properties, and that it is not unduly intrusive or that it will significantly affect sunlight to neighbouring properties.

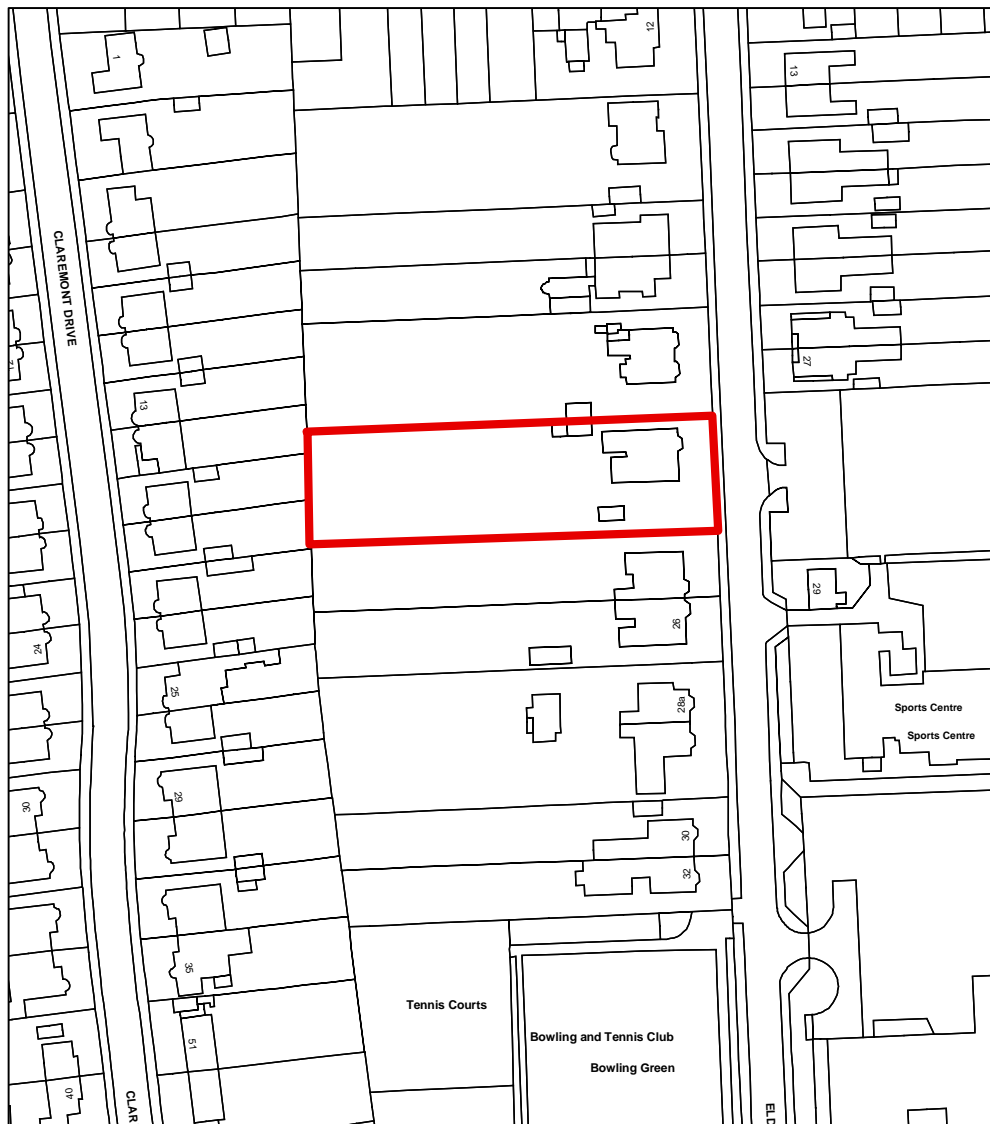
It is for the above reasons that the application is recommended for approval.

RECOMMENDATION - APPROVE

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) received on 6 September 2006, unless otherwise agreed in writing by the Local Planning Authority
For the avoidance of doubt
4. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no windows(s) shall be inserted in the elevation of the extension facing 20 Eldon Grove without the prior written consent of the Local Planning Authority.
To prevent overlooking

22 Eldon Grove



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 06/11/06
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2006/0472	REV

No: 5
Number: H/2006/0770
Applicant: Mrs M Oldroyd Ocean Road Hart Station Hartlepool TS29 9RQ
Agent: 31 Ocean Road Hart Station Hartlepool TS29 9RQ
Date valid: 12/10/2006
Development: Listed Building Consent to replace rear first and second floor windows
Location: MAYFIELD HOUSE FRIAR TERRACE HARTLEPOOL HARTLEPOOL

The Application and Site

5.1 Listed Building consent is sought for replacement windows to the rear elevation of Mayfield House, a three storey mid-terrace residential building within the Headland Conservation Area. The building is Grade II listed. The 4 windows in question are timber casement framed which require replacement due to their poor condition. The proposal would be to replace them with top hung mock sliding sash timber frames.

Publicity

5.2 The application has been advertised by way of neighbour letters (5). To date, a single letter of no objection has been received

5.3 The period for publicity expires before the meeting

Consultations

5.4 The following consultation replies have been received:

Landscape and Conservation Manager – The windows that are currently installed within the property are timber casement windows. The openings do not reflect those which normally fit sash windows therefore it can be concluded that at some point the fenestration to the rear of this building has been altered.

PPG 15 states that ‘if a building has been re-windowed there may be a desire to return to the original glazing pattern.’ In this case this would involve the removal of render from the re-rear of the property to locate the original window openings and the insertion of the new openings. This in itself is a major task, however given that the building has been converted to flats it may also become apparent that the original window openings cannot be returned due to internal alterations. This being the case the most appropriate option would be to retain the window openings that exist.

As referred to previously the existing openings would not accommodate a traditional sash window. The applicant has proposed installing top hung sash windows. These are out of character with the listed buildings. In addition the common window type in this conservation area is a sliding sash windows. Top hung windows which mimic sash windows are generally inappropriate.

It is suggested that in this case where alterations have been made the property retains casement windows of an appropriate design. I have recently spoken to the owner of this property and agreed to discuss the design further but would suggest a two pane window, with one side opening casement. Would it be possible to condition this detail?

The windows should be timber rather than UPVC. Although a relatively modern alteration to the property the use of UPVC on listed buildings is not appropriate.

Headland Town Council - No response received

Planning Policy

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

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.

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

Planning Considerations

5.6 The main consideration in this case whether the choice of material and design would be appropriate to the character and special interest of the building. The most appropriate type of window for this building taking account of its age, listed status and presence within the Headland Conservation Area would be timber sliding sash. The proposed top-hung windows are not considered to be in keeping with its character and special interest and as such technically there is considered to be a conflict with policy HE8.

However it is important to consider the specific circumstances of this case. Firstly it appears that the windows which the applicant is seeking to replace are not the original traditional design. The existing windows were inserted prior to the building becoming listed and as such like for like replacement is considered reasonable in this case.

5.7 Secondly the windows in question are not prominently sited being on the rear elevation of the building some 40 metres from the nearest public vantage point, an access lane at the rear of the property and generally obscured from public view by a high wall.

5.8 Thirdly the existing openings are not the original window openings and would not accommodate a traditional sash window.

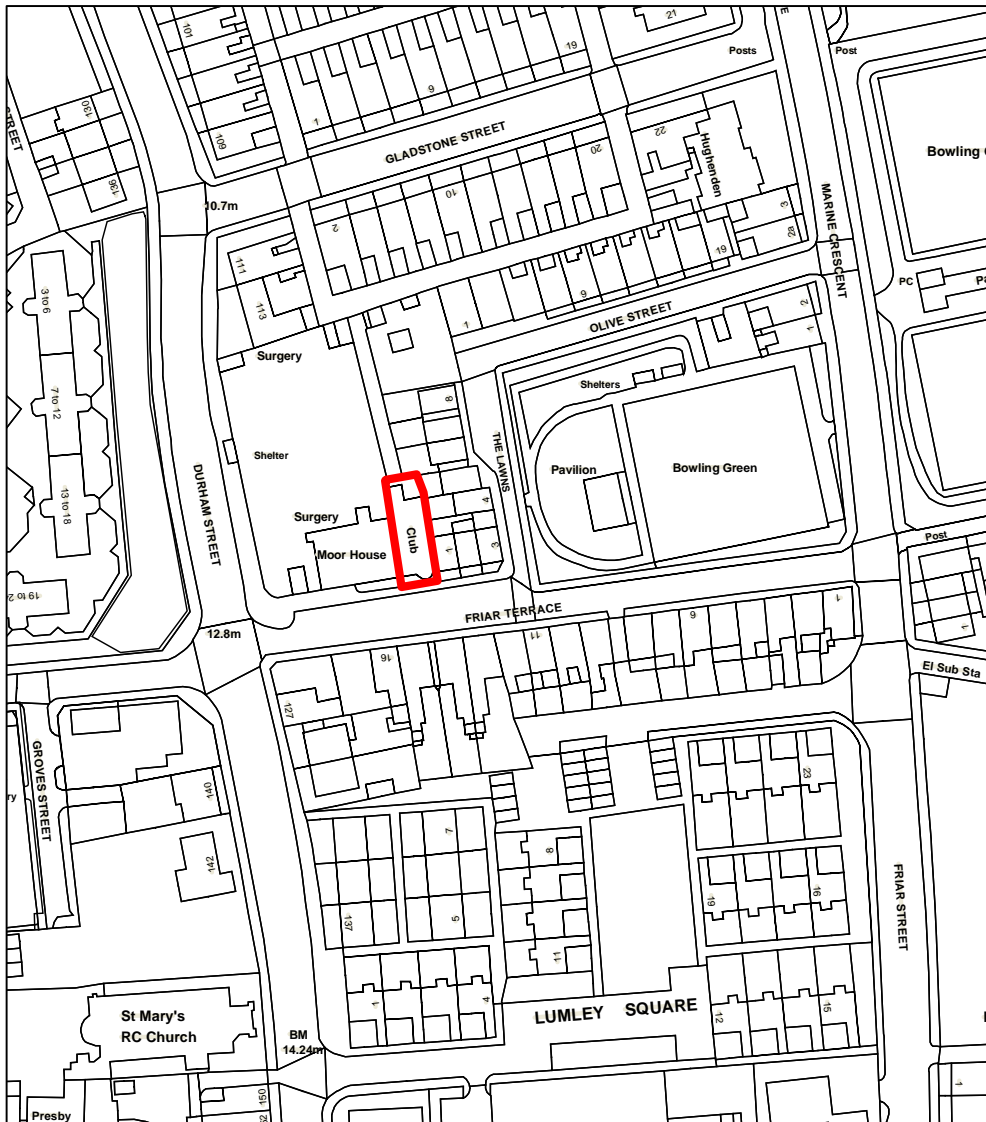
5.9 The proposed incorporation of non traditional top hung mock sliding sash windows is not considered to be an appropriate solution in this case and would conflict with planning policy objectives.

5.10 However given the circumstances of this site, a more modern casement design in timber would be considered appropriate.

RECOMMENDATION – APPROVAL

1. Full details of the design of the proposed windows shall be submitted to and agreed by the Local Planning prior to their installation
In the interests of protecting the appearance and character of the listed building
2. The development to which this permission relates shall be begun not later than five years from the date of this permission.
To clarify the period for which the permission is valid.

Mayfield House, Friar Terrace



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 10/11/06
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2006/0770	REV

No: 6
Number: H/2006/0726
Applicant: Wharton Trust WHARTON TERRACE HARTLEPOOL
TS24 8NS
Agent: Stephenson Johnson & Riley Suite 101 The Innovation
Centre Venture Court Queens Meadow Business Park
HARTLEPOOL TS25 5TG
Date valid: 05/10/2006
Development: Erection of a rear ground floor extension to provide multi-
function room
Location: THE ANNEXE WHARTON TERRACE HARTLEPOOL
HARTLEPOOL

The Application and Site

6.1 The site to which the application relates is large mid terraced building located to the north side of Wharton Terrace, within a predominately residential area.

6.2 This application seeks consent for the erection of a rear single storey extension to provide a multi function room. The proposed extension is to be built upon one of the existing yard areas to the rear of the building with a floor area of approximately 31.5m².

6.3 The extension as proposed is to project from the rear of the property to the boundary with the rear lane serving Wharton Terrace and Parton Street. The proposed plan indicates a solid boundary wall to the north elevation with the provision of high level velux style roof lights in the pitched roof.

Publicity

6.3 The application has been advertised by way of neighbour letters (8) and a site notice. To date, there has been 1 letter of objection, with a petition of 33 names of residents attached to it.

6.4 The concerns raised are:

- 1) Anti-social behaviour
- 2) Parking
- 3) Noise
- 4) Litter
- 5) Vandalism

6.5 Copy letters E

6.6 The period for publicity has expired.

Consultations

6.7 The following consultation replies have been received:

Head of Public Protection and Housing: No objections

Planning Policy: No objections

Northumbrian Water: No objections

Head of Traffic & Transportations: Comments awaited

Anti-Social Behaviour Unit: No objections – there has been anti social behaviour outside the building but feels creating more space could help the situation.

Planning Policy

6.8 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.

PU9: States that community-based uses will be permitted in residential areas subject to amenity, accessibility, car parking and servicing considerations.

Planning Considerations

6.9 The main planning issues in this case are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan, the impact of the proposal on the amenities of occupants of neighboring properties, the street scene generally, highway safety, parking and crime related issues.

6.10 Notwithstanding the Brougham Enterprise Centre directly to the south of the application site, the area surrounding the application site is residential in character

with predominately-terraced housing. The Annexe clearly serves the local community.

6.11 The design of the proposed single storey extension is in keeping with the existing property and is considered acceptable and is broadly typical of extensions of neighbouring properties.

6.12 In terms of design, it is considered that the proposed extension is unlikely to create any detrimental overshadowing or outlook issues due to the property's orientation and physical relationship with the neighbouring properties. As there are no windows proposed in the rear elevation and the velux roof light are to be approximately 3m in height it is considered very unlikely that any overlooking issues will occur. Given the relatively small scale of the proposal in relation to the existing two storey property and that the ally way to the rear is subject to security gating and it not a thoroughfare it is considered unlikely the proposed extension will affect the existing character of the street scene.

6.13 The letter of objection and attached petition is concerned that the proposed extension will create a larger floor area and lead to more people using the annexe. The objection raises, car parking in the area and the noise and anti-social behaviour particularly associated with youths currently undertaking activities at the premises.

6.14 Officers have sought further clarification of the anticipated use and users of the proposed extension and further details of the current use of the property.

6.15 It is expected that the further information requested will be made available from the applicant prior to the Planning Committee and therefore an update report will follow.

RECOMMENDATION – Update to follow.

The Annexe, Wharton Terrace



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 06/11/06
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2006/0726	REV

No: 7
Number: H/2006/0736
Applicant: Mr M Hoey SPALDING ROAD HARTLEPOOL TS25 2JR
Agent: 60 SPALDING ROAD HARTLEPOOL TS25 2JR
Date valid: 29/09/2006
Development: Erection of a single storey rear kitchen extension and provision of a dormer window to front and rear to create 2 bedrooms in the roofspace (amended scheme involving increase in roof height)
Location: 60 SPALDING ROAD HARTLEPOOL HARTLEPOOL

The Application and Site

7.1 The site to which this application relates is a single storey semi-detached bungalow with a detached garage to the rear/side. The property has gardens to the front and rear and is located in a predominantly residential area.

7.2 The application follows a recent approval (H/2006/0457) for the erection of a single storey kitchen extension to the rear and provision of a dormer window extension to the front and rear elevations to create 2 bedrooms and an en suite bathroom in the roof space.

7.3 This application, alongside the proposals listed above, seeks to increase the roof height of the bungalow. The application has been amended since originally submitted to increase the height by 0.45m. The remainder of the report relates solely to the amended plans submitted.

7.4 The works were underway at the time of the Officer's site visit. The applicant is aware that any works are at risk.

Publicity

7.5 The application has been advertised by way of neighbour letters (6). To date, there have been 3 letters of objection

The concerns raised are:

- 1) The dormer windows will overlook the properties to the rear
- 2) Raising of the roof looks out of place and too large for a bungalow
- 3) Works have commenced without planning permission
- 4) As it is a semi detached property it looks too large and out of place
- 5) Small semi-detached bungalow, which is now being turned into a large house, in the middle of a colony of bungalows, of which the majority of people are retired.
- 6) Out of character with the area

- 7) 'any person alighting from any side of the cars can see straight into our main bedroom window, which we strongly object to as it is encroaching on our privacy'.
- 8) A larger house would bring about more traffic and we are very concerned about parking in front of our main bedroom window'
- 9) The applicant intends to run his business from home, which will bring excess traffic to the part of the drive, which faces our bedroom.
- 10) We do not think it is fitting to run a business from a retirement area.

Copy letters D

The period for publicity has expired.

Planning Policy

7.6 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.

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

Planning Considerations

7.7 The majority of works have already been granted planning permission under the scheme of delegation. The main issue in this case is the raising of the height of the roof.

7.8 The proposed kitchen extension projects 2.4m from the rear of the property with a width of 3.3m approximately 3.5m from the shared boundary with the adjoining property. The kitchen extension as proposed incorporates a pitched roof, which has a maximum ridge height of 3.8m with a height of 2.5m to the eaves.

7.9 It was considered that the design of the kitchen extension was acceptable as it respects the character of the dwellinghouse in terms of size and scale. Given the distance of the proposal from the shared boundary (3.5m) and the relatively small projection (2.4m) it was considered unlikely that the proposal will lead to detrimental overshadowing or dominance issues upon the rear windows of 58 Spalding Road. The kitchen extension conforms to the guidance held within the Hartlepool Local Plan.

7.10 With regard to the proposed dormer windows upon the front and rear elevation it was considered, given the mix of house types in the surrounding area (single storey, dormer and two storey) it was unlikely the provision of a dormer window extension upon the front elevation would appear out of keeping or out of character with the surrounding area. Notwithstanding that there are views of the proposed dormer windows from the surrounding public highway, as the house is set well back from the road frontage (approx 13m) it was considered unlikely that the provision of a dormer window would appear dominant upon the street scene.

7.11 The separation distances associated with proposed dormer windows (front and back) were considered acceptable and in line with the guidance held within the Hartlepool Local Plan.

7.12 In relation to this application, a letter of objection has now been received from the occupants of a neighbouring property (66 Spalding Road) over the potential overlooking/privacy issues, which could be created upon the surrounding residential properties. Originally, there was a concern rather than an objection.

7.13 It is acknowledged that there is scope for potential overlooking upon the rear garden areas of the surrounding properties, however, as the separation distances associated with proposed development are acceptable and given the surrounding two storey properties immediately to the south and west of the application site it is not considered a refusal could be sustained upon these grounds. It is important to note that the provision of a dormer window solely to the rear could, in some instances, constitute permitted development.

7.14 An objection has also been received regarding the parking of vehicles within the curtilage of the applicant's property by the occupants of the adjacent property (62 Spalding). The concern relates to the applicant parking cars upon his driveway, which runs along the side of the neighbouring property. The objector is concerned that the increase in the size of the property will in turn increase the amount of associated traffic and bring about noise, disturbance and privacy issues upon the front elevation of the neighbouring property. As the driveway already exists and that the extensions proposed relate solely to residential use, it is not considered to be material in this case.

7.15 The objector makes reference to the applicant intending to run a business from the property and is concerned about visiting customers. The applicant has confirmed (by letter dated the 6th November 2006) that he is a self-employed financial advisor and that he visits clients at their properties and that they will not visit the property. If it were established that this was not the case this could form the basis of for separate investigation.

7.16 With regard to the proposed increase in roof height, it is considered that, as property is set back from the road frontage (as stated previously) and given the properties physical relationship with the surrounding properties and its location upon a sweeping corner it is considered that the proposal does not appear dominant upon the street scene.

7.17 Given the relatively small increase in roof height (0.45m) it is not considered that the host property appears unduly dominant upon the adjoining property in terms of size. Given the relatively small increase in height in relation to the height of the original property it is unlikely, given the orientation, that the increase would create detrimental overshadowing issues upon the surrounding properties.

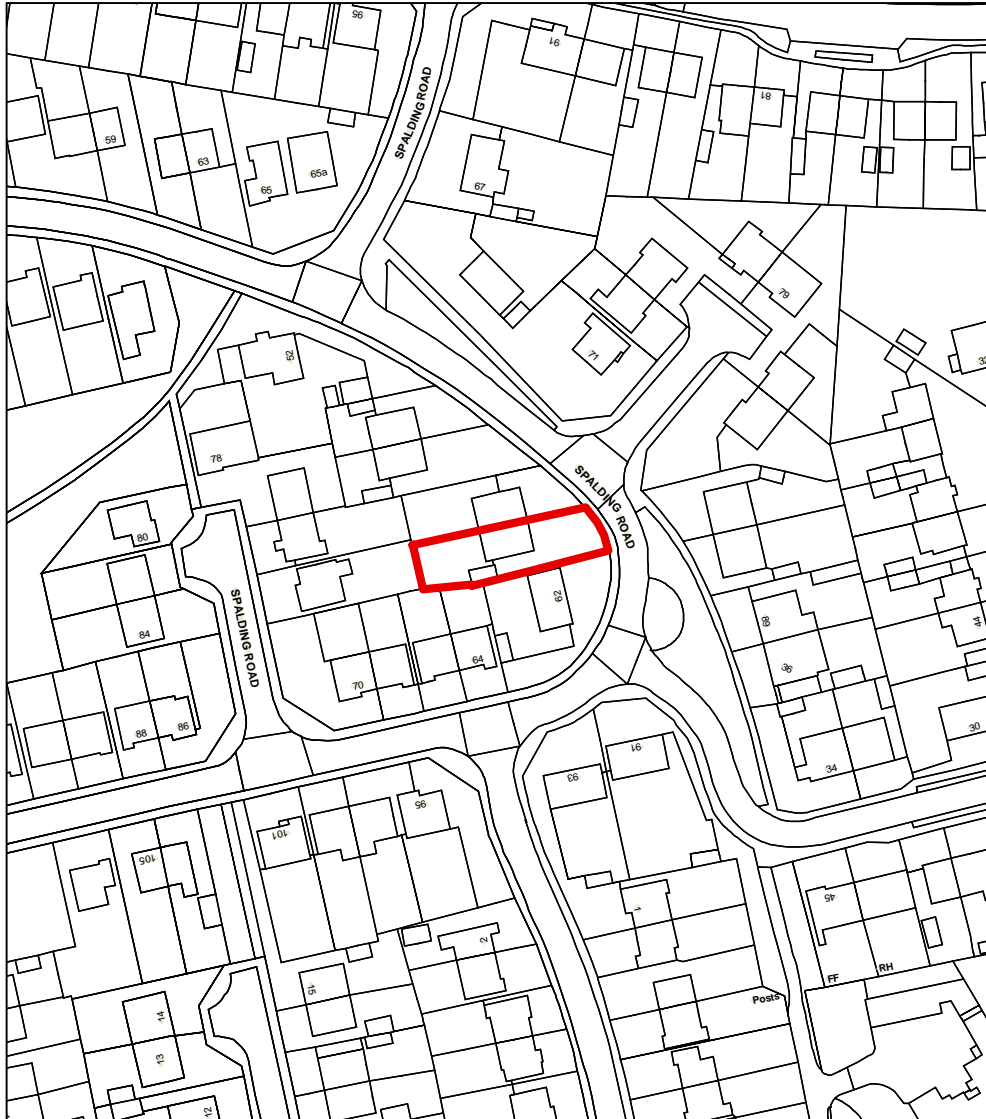
7.18 It should be noted that it is not unusual for there to be small variations in roof heights on semi detached properties particularly where there are changes in ground level.

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

RECOMMENDATION – Approve, subject to 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 external materials used for this development shall match those of the existing building(s).
In the interests of visual amenity.
3. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting the Order with or without modification), no windows(s) shall be inserted in the elevation of the extension facing 58 Spalding Road without the prior written consent of the Local Planning Authority.
To prevent overlooking

60 Spalding Road



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HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 06/11/06
	SCALE 1:1200	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO H/2006/0736	REV

No:
Number: H/2005/5486
Applicant: Tesco Stores Limited P.O. Box 400 Cirrus Building Shire
Park Welwyn Garden City Herts
Agent: Development Planning Partnership Josephs Well
Hanover Walk Leeds LS3 1AB
Date valid: 03/06/2005
Development: Extension to store to provide additional sales and storage
areas and associated works
(AMENDED PLANS RECEIVED)
Location: TESCO STORES LTD BELLE VUE WAY HARTLEPOOL
HARTLEPOOL

Update report

Highway Matters

1 Further representations have been received from HQ Engineering with regard to this development. Along with a number of other issues, these remain under consideration at this stage. A further update will be given to Members at the committee meeting.

No: 7
Number: H/2006/0726
Applicant: Wharton Trust WHARTON TERRACE HARTLEPOOL
TS24 8NS
Agent: Stephenson Johnson & Riley Suite 101 The Innovation
Centre Venture Court Queens Meadow Business Park
HARTLEPOOL TS25 5TG
Date valid: 05/10/2006
Development: Erection of a rear ground floor extension to provide multi-
function room
Location: THE ANNEXE WHARTON TERRACE HARTLEPOOL
HARTLEPOOL

Update Report

6.1 Further clarification of the anticipated use and users of the proposed extension and details of the current use of the property is still awaited.

6.2 It is expected that the further information requested will be made available from the applicant prior to the Planning Committee and therefore an update will be given at the meeting.

PLANNING COMMITTEE

22nd November 2006



Report of: Chief Solicitor

Subject: PLANNING CODE OF PRACTICE

1. PURPOSE OF REPORT

The purpose of this report is to introduce Members of the Planning Committee to a draft Planning Code of Practice, which it is proposed be ultimately recommended to Council for approval and incorporation in the Constitution. This report was previously submitted to the Council's Standards Committee and a draft Code of Practice has also been provided to members attending planning training.

2. BACKGROUND

- 2.1 Following the recommendations of the Nolan Committee on Standards in Public Life, the Local Government Act 2000 established an ethical framework for local government in which each authority's Standards Committee has a pivotal role. Nolan recognised as a significant area of concern probity in the discharge of local authorities' planning functions and, flowing from that, an expected element of an authority's armoury against improper practice is a local Planning Code of Practice.
- 2.2 The attached draft Planning Code of Practice draws upon guidance issued by, amongst others, the Local Government Association, Royal Town Planning Institute and the Audit Commission. The draft code also builds upon the ethical framework established under the Local Government Act 2000 and also general compliance with the provisions of the Human Rights Act 1998.
- 2.3 The earlier submission of the draft Code to the Standards Committee and its consideration by Planning Committee follows the 'constitutional' route to ultimate approval by Council, which is anticipated to follow the path set out below –
- Standards Committee
 - Planning Committee
 - Cabinet
 - Standards Committee (to deal with any significant changes resulting from other consideration)
 - Council

3. THE DRAFT PLANNING CODE OF PRACTICE

3.1 The main purpose of the code, is summarised as follows:-

- Protecting the Council from criticism about the conduct of Members in the planning process.
- Providing a framework to deal with potential problems.
- Assisting in making decisions in the public interest.
- Illustrates the openness and transparency of the decision making process.
- The Planning Code of Practice seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control.

3.2 A failure to abide by the provisions contained within the Planning Code of Practice may lead to:

- The Council being at risk of proceeding on the legality or maladministration of the related decision; and
- Placing a Member(s) at risk of either being named and a report made to the Standards Committee or Full Council, or if the failure is likely to be a breach of the Code of Conduct, a complaint being made to the Standards Board for England.

3.3 The Government's White Paper: 'Strong and Prosperous Communities' (October 2006) indicates that changes to the members' code will include amending the rules on personal and prejudicial interests to remove the current barriers to Councillors speaking up for their constituents or for the public bodies on which they have been appointed to serve. Consequently Members will be able to speak and vote on issues unless their interests in the matter are greater than those of most other local people in the ward.

However, revisions to the Code of Conduct are not anticipated until May 2007, it is therefore deemed appropriate for Members to consider the adoption of a Planning Code of Practice, with subsequent changes, as and when the same becomes necessary.

3.4 The draft code is set out in the attached appendix.

4. RECOMMENDATION

4.1 Members are invited to consider and comment on the draft Planning Code of Practice and subject to any amendments arising from consideration by the bodies referred to in para 2.3, to commend its adoption by Council.

HARTLEPOOL BOROUGH COUNCIL

PLANNING CODE OF PRACTICE

**Hartlepool Borough Council
Civic Centre
Victoria Road
HARTLEPOOL
TS24 8AY**

Draft Version – 11/06

CONTENTS

	PAGE
1. INTRODUCTION	4
2. THE NEED FOR A CODE	4
3. SCOPE OF THE CODE	4
4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS	5
5. WHAT PLANNING DECISIONS ARE BASED ON	6
6. DUTIES AND SANCTIONS	8
7. THE DECISION MAKING PROCESS	8
8. LOBBYING OF AND BY COUNCILLORS	9
9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS	11
10. REGISTRATION OF INTERESTS	12
11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE	12
12. PARISH OR TOWN COUNCIL MEMBERSHIP	14
13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL	14
14. OFFICER REPORTS TO COMMITTEE	14
15. COMMITTEE PROCEDURES	15
16. COMMITTEE SITE VISITS	16
17. DECISIONS DELEGATED TO OFFICERS	17
18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN	17
19. DECISIONS CONTRARY TO OFFICER ADVICE	17
20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED	18
21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS	18
22. THE COUNCIL'S OWN DEVELOPMENTS	19
23. THE MEDIA	19
24. RECORD KEEPING AND COMPLAINTS	20
25. TRAINING	20
26. LEARNING FROM PAST DECISIONS	20
27. HOSPITALITY	21

28. RACIST COMMENTS	21
APPENDICES - 1, 2, 3, 4, 5, 6,	22/23/28 29/30/31

The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.

1. INTRODUCTION

1.1 The Local Government Act 2000 introduced a new ethical framework to local government, including a Model Code of Conduct for Councillors. Previously the Nolan Committee Report on Standards in Public Life (1997) issued advice to Local Planning Authorities to frame Local Codes of Conduct or Good Practice to cover the question of Probity in Planning. The Code complements and expands on the Model Code and is an annex to it. The Model Code is essentially concerned with the conduct of individual councillor's duties, while the Planning Code is concerned with the integrity of the Planning System and its procedures. The Code of Practice is based on guidance from, eg The Nolan Committee, the Local Government Association, the Royal Town Planning Institute, the Standards Board for England, the Audit Commission and others. The Code sets out practices and procedures designed to avoid allegations of malpractice in the operation of the planning system. The aim is to protect the integrity of the planning system as open and fair to all parties.

1.2 The Code will be enforced by the Council's Standards Committee and ultimately by the Standards Board for England. The Code will be a consideration in any investigation of maladministration by the Local Government Ombudsman. The Code refers mainly to the actions of a Planning Committee as the main decision making body, but it applies especially to other forms of decision making, eg Council where planning issues may be discussed. The Code applies to both Councillors and Officers.

1.3 In terms of Article 6 of the Human Rights Act 1998, (right to a fair trial), the Code, together with the availability of an appeal procedure will meet the requirements of the Article. Ensuring that decisions are properly recorded and supported by adequate reasons. The fundamental basis of the Code is that the Planning System operates in the public interest and therefore decisions affecting private and public interests have to be made openly, impartially, with sound judgement and for justifiable reasons.

1.4 In addition, the role of elected Councillors on a Planning Committee involves balancing/representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals which give rise to great tensions.

2. THE NEED FOR A CODE

2.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.

2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

3. SCOPE OF THE CODE

3.1 This guidance note sets out the practices which Hartlepool Borough Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of Borough Council Officers and Members on planning matters.

3.2 It applies to both Councillors and Officers who are involved in operating the planning system - it is not, therefore restricted

to professional town planners or to Members in Committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

3.3 Both councillors and officers are guided by codes of conduct. The statutory local code of conduct, supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all Planning Officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The Borough Council also has a Code of Conduct for Employees, by which all employees are required to abide. In addition to these Codes, the Council's Rules of Procedure govern the conduct of Council business.

3.4 Whilst this Code, and the others referred to above, attempt to be as clear as possible, ***if in doubt about how the guidance applies in particular circumstances seek advice***. Officers should seek advice from the Chief Solicitor, who also acts as the Council's Monitoring Officer under the Local Government and Housing Act 1989. Members can seek advice from the Development Control Manager or from the Legal Services Manager as appropriate.

3.5 Appendix 1 also contains a list of other guidance on planning which is available from the Council.

3.6 This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all applications, planning enforcement matters and also how the **Council has prepared a Local Plan and how it will prepare the Local Development Framework the programme of which is set out in the Local Development Scheme**. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contravenors in enforcement cases, and to

landowners, developers and objectors involved in plan proposals. The guidance applies to planning matters on which a decision will be taken by the Borough Council.

4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

4.1 Councillors and Officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the Borough. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may be given to Officers only through a Council or Committee decision. A successful relationship between Councillors and Officers can only be based upon mutual trust, respect and an understanding of each others roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

4.2 Therefore:

- ***Individual Councillors should not give instructions to Officers on planning matters.***
- ***Officers' actions will follow Council policy and Committee decisions.***
- ***Political group meetings should not be used to decide how Members should vote on applications and enforcement cases and Councillors are not mandated on these matters by a political group.***

4.3 The Model Code sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests (see next section), but also appropriate relationships with other members, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to councillors who

become involved in making a planning decision is the requirement that a member ***“must not in his official capacity, or any other circumstances, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage;”*** (Paragraph 5(a) of Model Code).

4.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee.**

4.5 Officers must always act impartially. The RTPI Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;
- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence; and
- shall not discriminate on grounds of race, sex, sexual orientation, creed, religion, disability or age, and shall seek to eliminate such discrimination by others and to promote equality of opportunity.

These guidelines should apply to all Planning Officers. More detailed guidance and requirements are in the Council's own Code of Conduct for Employees. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities

of senior staff, such as membership of political parties and serving on another Council.

4.6 Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Model Code. Members are placed under a requirement by the Model Code to:

- treat others with respect; and
- not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

4.7 The principles from the Relevant Authorities (General Principles) Order 2001 should guide the conduct of all Councillors. The general principles are attached at Appendix 6. In summary:

The actions and conduct of Councillors and Officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the Borough as a whole, and should not be improperly influenced by any person, company, group or Parish/Town Council. The key is to demonstrate that each Council and Councillor's decision was taken on the facts alone, without any undue outside pressure.

5. WHAT PLANNING DECISIONS ARE BASED ON

5.1 Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004, together with Government guidance and cases decided by the courts, define what matters are material to planning decisions.

5.2 ***It is the responsibility of Officers in preparing reports and recommendations to Members, and in advising Committees, to identify the material planning considerations and to ensure Members are aware of those matters which are not material to planning decisions.***

5.3 Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the development plan. Section 54A of the Town and Country Planning Act as re-enacted in Section 38(6) of the Planning and Compulsory Purchase Act, 2004 says that planning decisions shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan as at November 2006 consists of:

- Regional Planning Guidance No1.
- Tees Valley Structure Plan 2004.
- Hartlepool Local Plan (adopted 2006).

During the Spring/Summer of 2007 Regional Planning Guidance No.1 will be replaced by the new Regional Spatial Strategy for the North East.

The policies of the adopted local Plan will be saved for at least three years from April 2006. They will progressively be replaced by new Development Plan Documents of the Local Development Framework as they are prepared according to the timetable set out in the approved Local Development Scheme.

5.4 Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Planning Policy Statements (PPSs), Regional Planning Guidance, Regional Spatial Strategies (RSS), Circulars and Ministerial announcements;
- planning briefs and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

5.5 There is much case law on what are, and are not material planning matters. *Planning matters must relate to the use and development of land.* For example, the following are *not* normally planning matters and *cannot be taken into account in planning decisions*:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;

- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. DUTIES AND SANCTIONS

The Council's Planning Committee exercises the Borough Council's statutory Local Planning Authority functions and are the decision makers for the purpose of determining applications other than those matters falling within the Council's Scheme of delegation (see Appendix 5). Decision makers have a very special responsibility and have a number of statutory duties. There are also sanctions against the Council and Members for a failure to properly discharge the Local Planning Authority function. These duties and sanctions are summarised in Appendix 2.

7. THE DECISION MAKING PROCESS

In reaching a decision on a planning application, Members need to:-

- identify the development plan policies which are relevant to the particular development proposal;
- identify any other material considerations;
- if there are other material considerations, the development plan should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an adopted development plan. Planning Policy Statement 1: Developing Sustainable Development (The Planning System: General Principles) emphasises the 'Plan Led system' and at paragraph 27 advises that opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons.

At a fundamental level, Members should go through the following three stage process when making a decision:-

Stage 1

- Identify the relevant development plan policies and other relevant material considerations (if any) in respect of the application which need to be taken into account in the decision making process.
- Identify irrelevant matters which should not be taken into account in the decision making process. These include the applicant's personal qualities such as having a long term family connection with the area, his or her popularity in

the community, the fact he/she is a local farmer, the fact that a son or daughter is just about to marry.

Stage 2

Attach sufficient weight to the development plan policies and other material consideration for and against refusal or approval.

Stage 3

Weigh the material considerations in reaching a decision.

A failure to follow the proper decision making procedure can give rise to a proceedings for a Judicial Review or a finding of maladministration by the Local Government Ombudsman.

- *In the decision making process, Members should not take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government guidance on the weight to be attached to relevant considerations.*
- *Members should determine applications in accordance with the advice given to them by their professional officers unless they have good planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.*

8. LOBBYING OF AND BY COUNCILLORS

8.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their

elected Ward Member or to a Member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on Councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the Councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

8.2 Councillors need to take account of the general public's (and the Ombudsman's) expectation that a planning application and other applications will be processed and determined in a transparently open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration.; or to the Standards Board that a member has breached the local code.

8.3 A Councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at Committee. Whilst in most circumstances this may not amount to a prejudicial interest in

terms of the Model Code of Conduct, **the proper course of action for such a Member would be to make an open declaration and not to vote.** This can be seen, however, as a severe restriction on the Member's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a Member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.

8.4 It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and what the National Code of Local Government Conduct calls the 'overriding duty as a Councillor ... to the whole local community'. However, the following guidance will be appropriate in most cases.

8.5 Councillors who are lobbied on a planning matter before the Planning Committee:

- *may listen to what is being said;*
- *may give procedural advice eg to write to the Director of Regeneration and Planning, the name of the Case Officer, the deadline for comments, whether the application is to be determined by the Planning Committee or delegated to officers how decisions are reached through Officer recommendation/ Planning Committee;*
- *should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;*
- *should take great care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;*
- *should make it clear that Councillors will only be in a position to take a final decision after having heard all the*

relevant evidence and arguments at Committee;

- *should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to oppose or support the application (or enforcement case or Local Plan proposal);*
- *should not negotiate detailed planning matters with applicants, agents, objectors, etc;*
- *should pass relevant correspondence to the Case Officer prior to any Committee meeting;*
- *should report instances of significant, substantial or persistent lobbying to the Development Control Manager or the Director of Regeneration and Planning.*

8.6 Councillors who have openly declared their voting intention (on a planning or any other application, enforcement case or Local Plan proposal) in advance of the relevant Committee meeting should make an open declaration and leave the meeting, taking no part in debate or voting.

8.7 To avoid impressions of improper influence which lobbying by Members can create:

- *Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the Borough Council, and should not lobby other Councillors - such actions can easily be misunderstood by parties to the application and by the general public;*
- *Councillors should not put pressure on Officers for a particular recommendation;*
- *political group meetings should not be used to decide how Members should vote on planning matters;*
- *Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or Local Plan/Local Development Framework proposals to be determined by the Borough Council. Where a Councillor is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.*

- *Whenever a Member is approached or lobbied on any particular application Members should consider distributing on a regular basis the draft letter attached as Appendix 3 which makes clear the neutral stance which Members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting.*
- *If Members attend private site meetings in their ward at the request of the applicant they should express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors, again, without expressing any opinion on the merits of the application prior to determination before Planning Committee.*
- *Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.*
- *The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.*
- *Advice should be consistent and based upon the development plan and material considerations.*
- *Where the Director of Regeneration and Planning is the decision-maker (for delegated matters - see later), he/she should normally not meet the applicant, agent or objectors to discuss a case without another Officer present. A written note should be made of all discussions. A follow-up letter is advisable, at least when documentary material has been left with the Council. A note should also be taken of telephone discussions.*
- *Whilst Councillors will not normally be involved in pre-application or pre-decision discussions, if a Councillor is present he/she should be accompanied by an Officer. The Councillor should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.*

9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

9.1 The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving clear information about Local Plan policies, etc before proposals are designed; and so they can improve the quality of applications and development.

9.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

9.3 Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.*
- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*
- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for*

a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an Officer cannot legally circumvent this procedure.

- *Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant Committee.*

10. REGISTRATION OF

The Local Government Act 2000 and the Model Code place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by the Standards Board and advice may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

11.1 The Model Code abandons the use in the old National Code of the terms 'pecuniary' and 'non-pecuniary' interests. Instead, it uses the terms '**personal**' and '**prejudicial**'

interests. The code defines a personal interest in any matter under discussion as:

(1) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; and

(2) if a decision upon it might reasonably be regarded as affecting to a **greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, a relative or a friend, or

- any employment or business carried on by such persons;
- any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.

11.2 Where a member considers he has such a personal interest in a matter, he must always declare it, but **it does not then necessarily follow that the personal interest debars the member from participation in the discussion.**

11.3 The member then needs to consider whether the personal interest is a **prejudicial** one. The code provides that a personal interest becomes a prejudicial one "*...if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest*". If a member has such an interest, he should not participate in a discussion on the matter and *must withdraw from the room* and must not seek improperly to influence a decision in the matter.

11.4 The code does include some exceptions to this. For example, if the matter under discussion relates to:

- another authority of which the Councillor is a member;
- another public authority in which the councillor has a position of general management or control;
- a body to which the councillor has been appointed or nominated as a representative of the authority.

Then, in these circumstances, the interest **may not be regarded as prejudicial**. In practice, therefore, the member would need to declare the interest, but could participate. Following the decision in *R. (on the application of Richardson) v North Yorkshire County Council* (2003), the advice of the Council's legal officer should be sought on matters of declaration of interest. In the 'Richardson' case, the Court of Appeal determined that a member of an authority could not attend a Council meeting, 'simply by declaring that he attends in his private capacity' and so divert himself from his official capacity as a Councillor.

11.5 It can be seen that these provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor's wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. The Standards Board, although mandated to provide guidance on the Code of Conduct, the decision in the end will be for the councillor alone to take.

11.6 Translated to a councillor's involvement in planning issues, the two stage test of personal and prejudicial interests will, as now, require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the councillor, his family, friends or employer.

11.7 The exceptions made to the definition of prejudicial interests relating to membership of outside bodies mentioned above are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the authority.

11.8 When considered in the context of planning matters, this approach will require the exercise of particular judgment on the part of the councillor. The use of the term 'prejudicial' to describe the interest is helpful here. If a planning matter under consideration relates to another body upon which the councillor serves, the exemption in the Model Code would suggest that the member could participate in a decision on that matter - ie membership of that body could not be considered per se a prejudicial interest, which would bar the member.

11.9 However, if a member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in meetings of the other body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account, they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of Judicial Review. So the exemption in the Model Code would only operate in the planning context, if the member had scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance on appropriate conduct in relation to membership of other bodies and the effects of such membership on participation in the planning decision-making process. It is expanded in section 8 "Lobbying of and By Councillors".

11.10 There will be occasions when members will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that member

be able to vote on any planning application relating to that development? The appropriate action is not clear cut, and may depend on the particulars of the case. However, the general advice would be that a member in such circumstances may well be so committed to a particular development as the result of undertaking the responsibilities of furthering the development of the area, that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached. Indeed, the member may be seen as an advocate on behalf of the authority for the development in question. In that sense, the member becomes almost the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member advocating for the development should not vote on the relevant applications.

11.11 The Council's Code of Conduct for Members requires that a Councillor who declares a prejudicial personal interest should withdraw from the relevant Committee meeting and take no part in speaking or voting on that item.

11.12 Appendix 4 gives some specific examples of when it has been felt necessary to declare an interest, which may help to amplify the above general guidance.

12. PARISH OR TOWN COUNCIL MEMBERSHIP

12.1 The Council consults the relevant Parish or Town Council or Parish Meeting on every planning application. Planning Officers may, on request, attend a Parish or Town Council meeting early in the life of an application to explain the facts of the application and any relevant Development Plan policies.

12.2 Difficulties can arise for Councillors who are members of a Town or Parish Council as well as the Borough Council. By taking part in a Parish or Town Council meeting when their comments on an application are agreed, a Borough Councillor will be seen to have made up her/his mind in advance of hearing all the issues at the decision-making Borough Council Committee. The member could be considered to have fettered his or her discretion. In those circumstances the member

should not participate at the Borough Council meeting.

In such cases the member has been excluded not because of the code but because the member's previous actions had fettered his or her discretion and possibly laid the council open to the objection that the planning process had been tainted. So, a member has to choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making; or reserve judgment until all views have been considered and only then form a view.

'Dual' Members should therefore either:

- *not take part in the discussion of an application at the Town or Parish Council meeting at which comments are agreed; or*
- *not take part in the discussion/decision on the application at the Borough Council Committee;*

Furthermore:

- *although the consultation response from a Parish/Town Council is a relevant consideration, Members should not automatically defer to the Parish/Town Council view, because Parish/Town Councils do not have the advice of professional Planning Officers in reaching their decision.*

13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL

13.1 Members or Officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the Development Control Manager or the Director of Regeneration and Planning of the breach in writing.

13.2 Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Development Control Manager and the Director of Regeneration and Planning and be

the subject of an enforcement report to Planning Committee.

14. OFFICER REPORTS TO COMMITTEE

14.1 To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications, enforcement cases and Local Plan proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed through the Development Control Manager and will reflect the collective view of the Department - not the view of the individual author.

14.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and Local Planning policies and their implications for the case; the site or related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any planning agreement or obligation proposed in association with the planning permission.

15. COMMITTEE PROCEDURES

15.1 Decisions for most planning applications are taken by the Council's Planning Committee. The procedure for processing

planning applications may be summarised as follows:



15.2 Reports are available to the public five working days before the Committee on request. Paragraph 14.2 describes the content of reports. The application files, containing all comments, are also available at that stage. Late letters and other information may be put to Committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend Committee meetings and may speak under the terms of the Council's public speaking policy.

15.3 A guidance leaflet on public speaking and the process to be followed is available from the Borough Council. In essence, the officer will explain what is proposed and highlight the key planning issues. An individual wishing to speak on an application can ask to address the Committee for up to 3 minutes. Members may then ask questions of that individual if they wish. If the applicant (or agent) wish to speak or respond to points raised, they can then do so. Again, Members will then debate the merits of the case and arrive at a decision.

15.4 It is important that Members are fully informed when making their decision and it is therefore preferable that they are present throughout all the debate on an item. If any Member has to leave the Committee meeting thereby missing any part of the proceedings, he/she should only take further part in the voting on the item(s) considered during their absence if he/she is satisfied that their absence was not such as to prejudice their understanding of and views on the issues.

15.5 The Planning Committee may agree or disagree with the report and recommendation (but see sections 18 and 19 below). Having considered all the relevant planning matters, the Committee may:

- grant planning permission, usually with appropriate planning conditions;
- refuse planning permission, with justified planning reason(s);
- defer the application for further consideration.

15.6 Planning enforcement decisions are normally taken by the Planning Committee. A written Officer report will normally be prepared in advance of the Committee. The report and the discussion at the Committee on some enforcement matters may not be available to the public, for example if the information relates to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Schedule 12A of the Local Government Act 1972 as amended sets out what can be considered in private.

15.7 Decisions on Local Plan/Development framework proposals are referred to the Regeneration and Planning Portfolio Member, following consideration of a written Officer report.

15.8 The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will usually not be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chairman of the meeting, assisted where appropriate by officers. To facilitate this:

- *a briefing for the Chairman and Vice-Chairman of the Planning Committee will be held after the Officer reports and recommendations have been published. The purposes of these briefings is to inform the Chairman and Vice-Chairman of the issues, to ensure that the rationale for the Officer recommendation*

is explained, and to identify any potentially problematic or controversial items;

- *one or more Chartered Town Planners will be present at all Planning Committee meetings at which planning matters are considered;*
- *a Legal Officer will normally also be present.*

16. COMMITTEE SITE VISITS

16.1 The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a Ward Councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the Ward Councillor can justify his/her request in relation to material planning considerations. Site visits should not be employed merely to appease local interest in an application.

16.2 However, site visits cause delay and add costs for the applicant and Council, and should only be used where there are substantial benefits. Therefore:

- *A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by Officers, or if the proposal is particularly contentious.*
- *The reasons for a site visit should be clearly stated and minuted.*
- *All Members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following Committee meeting.*

16.3 Site visit meetings will be conducted in a formal manner:

- *The Chairman should start by explaining the purpose and conduct of the site inspection.*
- *The Officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.*

- *The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.*
- *To avoid giving an impression of being lobbied, Members should not listen to or talk to any individuals whilst on site, unless being addressed as a group. Any comments should be made to the whole group through the Chair.*
- *The public, applicant or objector may attend the site inspection and will be invited by the Chair to draw Members' attention to any salient features or to any relevant factual information.*
- *Other than to draw Members' attention to any salient feature or to clarify a factual point, the public, applicant and objector will not be allowed to participate.*
- *To avoid Members being spoken to individually, the Chairman should endeavour to keep the Committee together as a group.*
- *No discussion or decision-making will take place on site.*
- *No hospitality will be accepted before, on or after site visits.*
- *Members or Officers who have any declarable interest which means they should not participate at Committee on determining the application should not attend a site inspection.*

17. DECISIONS DELEGATED TO OFFICERS

17.1 The Council has agreed that decisions on certain types of application can be taken by the Director of Regeneration and Planning through the Development Control Manager or the Assistant Director of Regeneration and Planning. These are less contentious proposals, such as house extensions, advertisements, small industrial extensions, the discharging of planning conditions and breaches of planning conditions imposed by a Committee. The full list of decisions delegated to the Director of Regeneration and Planning is set out in Appendix 5. The system allows quicker decisions to be taken on straightforward matters.

18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

18.1 Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 5.3).

18.2 *If Officers are recommending granting planning permission contrary to the development plan:*

- *The decision will always be taken by Committee, and not as a delegated decision.*
- *The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.*
- *The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (General Development Procedure) Order 1995 Article 8.*

18.3 If the decision would be a significant departure from the Development Plan, (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Department for Communities and Local Government to enable a decision whether to 'call in' the application to be decided centrally.

19. DECISIONS CONTRARY TO OFFICER ADVICE

19.1 If the Planning Committee makes a decision contrary to the Officers' recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the Officers' recommendation, or the Chairman, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be material planning considerations (see section 5 above);*

- *the Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and , if an approval is proposed, to recommend appropriate planning conditions;*
- *if the decision would be contrary to the Development Plan, then the Officer should comment on the extent to which the other planning considerations could be seen to override the Development Plan, and on whether the decision would be significant departure from the plan requiring (see section 18 above);*
- *where Planning Committee indicates that it is not minded to accept the Officers recommendation for approval, the planning application should be deferred to the next available meeting of Planning Committee where so requested by the representatives of the Director of Regeneration and Planning. This deferral period enables Officers to prepare clear and convincing planning reasons for refusal;*
- *a detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Development Plan, the minute should state that and clearly set out those planning considerations which override the development plan.*

19.2 If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes. Both reasons for refusal and reasons for supporting conditions need to clearly refer to applicable Development Plan policies, where relevant.

20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

20.1 One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a

planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

20.2 The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:-
 - insufficient weight has been given to Officers' recommendations and Central Government guidance; and
 - there is a failure to give and record reasons for the authority's change of mind.

20.3 Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

20.4 Therefore:

- *If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval are before a vote is taken.*
- *If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman*

should also state why the Inspector's decision should no longer be followed before a vote is taken.

21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS

21.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. Proposals can take the form of either planning applications or Development Plan proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

21.2 For planning proposals from Officers and Councillors (which are otherwise deemed by the Director of Regeneration and Planning, or his representative, to be contrary to the principles set out in the scheme of delegation) shall proceed to determination before Planning Committee, subject to the following principles:

- *Serving Councillors and Officers who submit their own proposal to the authority they serve should play no part in the decision-making process for that proposal.*
- *Such proposals will be reported to Committee and not dealt with by the Director of Regeneration and Planning under delegated powers.*
- *The Council's Monitoring Officer should be informed of such proposals by serving Councillors, and the Officers report to the Committee will show that the applicant is a Councillor.*
- *Councillors and Officers should never act as agents for people pursuing a planning matter with their own authority.*

21.3 For proposals submitted by close relatives and friends of Officers involved with the development control process:

- *The Officer concerned will have no involvement with the application.*

- *The Officer concerned should alert the Director of Director of Regeneration and Planning and/or the Development Control Manager to the proposal.*

21.4 Where a planning proposal directly affects the property or personal interests of a Councillor, she/he should play no part in the decision-making process. This would apply, for example if a Councillor submitted comments, as a neighbour, on a planning application.

21.5 Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

22. THE COUNCIL'S OWN DEVELOPMENTS

way as those by private developers.

- All applications for the Council's own development will be reported to Committee and not dealt with by the officers under delegated powers.
- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

23. THE MEDIA

23.1 The principles of this Code also apply to press contact. Councillors and Officers when commenting to the media on planning matters should:

- *have regard to the points made in the section on lobbying (Section 8);*
- *ensure that they do not give the impression that they have pre-judged the planning application;*
- *make clear that Councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;*
- *for delegated applications, make clear that the Director of Regeneration and Planning or his appointed representative*

will retain an open mind until such time as the full facts are available and presented for decision.

23.2 Any Officers can provide facts about a planning matter which are in the public domain and available to the media. However, the media should be referred to the Director of Regeneration and Planning or his appointed representative for attributable comments.

24. RECORD KEEPING AND COMPLAINTS

24.1 The Council has established its own Complaints Procedure. Complaints are first investigated within the Department by an Officer more senior than the Case Officer. If the complaint cannot be resolved within the Department it will be investigated separately by an officer outside of the Department of Regeneration and Planning.

24.2 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- *The main source of this documentation will be an Officer report to Committee and, if the Committee does not agree the recommendation, the Committee minutes.*
- *For delegated applications, a formal note of the main planning considerations is written and kept on file.*
- *These principles apply equally to enforcement and Development Plan matters.*
- *All Committee reports and delegated decision reports will be checked and agreed by the Development Control Manager.*

- *A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in proportion to the significance of the event.*

24.3 Section 14 gives more details on what reports contain.

25. TRAINING

25.1 As section 5 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each Councillor and Officer in the Regeneration and Planning Department, including new Councillors and employees.
- The Council will provide periodic training events for Councillors on planning, which all Members should endeavour to attend.
- Members newly elected to the Council must attend a training event on planning within their first year on the Council. A special training event for Members will be held after each four-yearly election of all Members.
- The Council will employ a Chartered Town Planner as Development Control Manager and will attempt to employ trained or Chartered Town Planners to operate its main planning functions.
- The Council will, as far as possible, assist Officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on Chartered Town Planners.

26. LEARNING FROM PAST DECISIONS

26.1 The lessons to be learnt from any complaint against the Planning Service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by Planning Officers of a selective number of planning decisions which will be appraised through training and other initiatives, including the visiting of affected sites and so considering where appropriate any complaints to learn from experience.

26.2 The Council is working towards a more systematic way of learning lessons from a sample of past planning decisions and outcomes.

27. HOSPITALITY

27.1 *Councillors and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.*

27.2 Councillors should also be very cautious about accepting gifts and hospitality. The Model Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £25, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.

27.3 Similarly, officers, during the course of carrying out their duties, officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Councils should provide a hospitality book to record such offers whether or not accepted. This book should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is likely to be a

feature of the statutory code of conduct for employees.

27.4 The presumption should be that any gift is normally refused.

28. RACIST COMMENTS

28.1 The Council will follow the procedures in the RTPI note "Planning Authorities and Racist Representations". In particular:

- Letters containing racist comments will be returned to the writer;
- Racist comments will not be referred to in reports to Committees;
- Persistent racist comments will be referred to the Commission for Racial Equality or the Police. This is to ensure that the Council abides by Sections 31 and 33 of the Race Relations Act 1976 and its duties and obligations contained within the Race Relations (Amendment) Act 2000.

28.2 Any applicants suggesting that they have been affected by racial abuse in whatever form, will have their application considered by Planning Committee and the Monitoring Officer will be advised of the circumstances and representations received.

APPENDIX 1: OTHER GUIDANCE**FROM HARTLEPOOL BOROUGH COUNCIL**

Code of Conduct for Members
Code of Conduct for Employees
Council's Constitution

FROM OTHER ORGANISATIONS

‘Code of Professional Conduct’ The Royal Town Planning Institute, (January 2001).

‘Guidance for Good Practice on Members’ Interests’, the Commission for Local Administration in England, April 1994.

‘Probity in Planning’, Local Government Association, 1997.

‘The Role of Elected Members in Plan Making and Development Control’, RTPI, 1997.

‘Planning Authorities and Racist Representations’, RTPI, July 1996.

‘Probity in Planning (Update)’, Local Government Association (March 2002)

‘Lobby groups’, dual-hatted members and the Code of Conduct – Guidance for members, Standards Board for England (September 2004).

APPENDIX 2: DUTIES AND SANCTIONS**1. DUTIES OF MEMBERS**

In determining applications, Planning Committee are not bound to follow the Officer's recommendation contained in a report. The Committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever Members do for example in approving applications contrary to Officer's recommendations, National and Development Plan Policy.

Members of the Local Planning authority have the following duties:-

- (i) Members must at all times act within the law;
- (ii) The overriding duty of Members is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community;
- (iii) Members have a statutory duty when determining planning applications to have regard to the provisions of the development plan where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Members have a statutory duty to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise (Section 54A Town & Country Planning Act 1990 as re-enacted in Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- (v) Members have a statutory duty when determining planning applications "to seek the achievement of the general objectives of the structure plan for the time being in force in their area". (Paragraph 7 of Schedule 1 to the Town & Country Planning Act 1990 as amended).
- (vi) Members have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses: Section 16 of the Planning (Listed Building and Conservation Area) Act 1990.
- (vii) Members have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (viii) Members have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS

Sanctions against Local Planning Authorities and Members are necessary because duties without sanctions would be potentially unenforceable. This part of the code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and Members.

The consequences of an unlawful or unreasonable planning decision are that the Council and Members would become subject to the scrutiny of the following external agencies:-

(1) THE STANDARDS BOARD FOR ENGLAND AND THE ADJUDICATION PANEL

Part III of the Local Government Act 2000 introduces the New Ethical Framework for Local Government. This is a statutory framework within which members must operate and a powerful structure to regulate compliance, although there are provisions for the Secretary of State to introduce a degree of local self-regulation by regulations.

Local Authorities including district Councils, Parish and Town Councils have experienced a significant strengthening of the standards of conduct arrangements within which elected and co-opted members must operate, backed up by a powerful external regulator to regulate compliance.

The New Ethical Framework has four elements:

- (1) Codes of Conduct;
- (2) a national regulatory organisation called the Standards Board;
- (3) the Adjudication Panel which may set up a tribunal to consider cases of misconduct by Members and;
- (4) Local Authority Standards Committees.

It is important to recognise that much of the New Ethical Framework is about the standards of conduct expected of elected and co-opted members of Borough/District Councils and Parish/Town Councils. To be more explicit the framework is concerned with the proper behaviour of politicians in public life, namely:

- (1) the way in which politicians conduct themselves in decision making;
- (2) their relationships with constituents, officials and outside interests; and
- (3) how conflicts of interest are declared and handled in the decision making environment of a Council.

(a) STANDARDS BOARD FOR ENGLAND

The system in England is policed by the National Standards Board, a newly created quango. In England, allegations of misconduct will be considered by the Board, which may instruct its Ethical Standards Officers to conduct an investigation. Ethical Standards Officers have considerable autonomy in deciding the approach they will take, with extensive statutory powers to require Councillors to:

- (a) attend before him or her in person;
- (b) furnish information and produce correspondence.

If a Councillor fails to comply with a request of an Ethical Standards Officer this is an offence with a maximum fine on conviction of £1000.

It is the Ethical Standards Officers who will decide either that:

- (a) there is no evidence of misconduct;
- (b) there is evidence but no action needs to be taken;
- (c) that the matter should be referred to the Local Authority's Monitoring Officer, or
- (d) that it should be referred to the President of the Adjudication Panel for adjudication by a Case Tribunal.

In assessing these powers, it is important to remember that they are only concerned with misconduct - not with fraud or corruption.

(b) **ADJUDICATION PANEL**

The Adjudication Panel for England is constituted separately from the Standards Board. It will establish case tribunals to consider matters referred to it by the Ethical Standards Officers. The person subject to the adjudication may appear or be represented before the case tribunal. Where that tribunal finds misconduct, it may suspend a member (up to one year, although this must not extend beyond the person's term of office), disqualify from present or future membership (up to five years) or take no disciplinary action. There is a right of appeal to the High Court.

(2) **DISTRICT AUDITOR**

The term 'surcharge' described the former powers of the auditor to recover financial losses from individuals on the basis that he or she is responsible for the authority incurring unlawful expenditure or has caused loss to the authority through misconduct. The surcharge provisions were repealed by Section 90 of the Local Government Act 2000. However, in future, the Standards Board and Adjudication Panel, rather than the auditor, will determine whether there has been misconduct and any issue would be pursued through them under the provisions of Part III of this Act.

Section 91 of the Local Government Act 2000 introduces a system of advisory notices. Advisory notices will apply to all bodies subject to audit under the Audit Commission Act 1998.

The advisory notice gives auditors time to seek the opinion of the Courts on the legality of an Authority's actions where they consider that the Authority or a committee is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the Authority concerned.

An Authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the Authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the Authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the Court on the legality of the proposed course of action. The Authority may then only proceed with the action if the Court decides that it is lawful or if the auditor does not seek a Court's opinion within the notice period.

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee or the Policy and Resources Committee are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;
- (c) costs of local public inquiries, including possible award of applicants' costs following use of Secretary of State's call in powers;
- (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

(3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:-

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;
- (c) failure to give due weight to Officer's recommendations and National Policy coupled with a failure to give and record clear and convincing planning reasons for approving a planning application where a planning application for substantially the same development has previously been refused;
- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974, as amended.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believe that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:-

- (a) whether the Council determined the planning application in accordance with the Development Plan or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;

- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;
- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the claimant succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the claimant's action to be awarded against the Council.

(5) THE “CALL IN” POWERS TO THE SECRETARY OF STATE

The Secretary of State has call in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with National and Development Plan Policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the Local Planning Authority. This power is contained in Section 77 of the Town & Country Planning Act 1990.

(6) THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

An example of this power being exercised is the Secretary of States decision to revoke a planning permission for a superstore in Alnwick. The supermarket group Safeway demanded in excess of £4 million compensation from Alnwick District Council, which is the third smallest district council in England. The Secretary of State concluded that Alnwick District Council was grossly wrong to grant planning permission for a supermarket on the grounds inter alia that it was contrary to national planning guidance, structure and local plan policies.

APPENDIX 3**DRAFT LETTER FOR LOBBYISTS**

Dear Sir/Madam

The Role of a Councillor in a Planning Application

Thank you for seeking my advice as a Borough Councillor on a planning application. I will do all that I can to see that the matter is dealt with as fairly and as quickly as possible. My role as a Councillor is to listen and assist you and others through the planning process. The process is complex and involves consulting a number of different people. The views of various people will not always coincide.

The Council has adopted policies on most planning matters and it is important that applications are dealt with firmly in accordance with those policies so that decisions are consistent throughout the Borough.

A large number of applications are dealt with directly by Planning Officers under powers delegated to them. Other applications are dealt with by Planning Committee. If I am a member of the appropriate Committee I will have a vote on this application. If not, I may be able to attend the Committee if the application is within my Ward, but not vote. It is not possible for me to provide any commitment or support for an application or objection until I have heard all the facts presented at Committee. I may also be approached by others who will take a different point of view to you and I will therefore need to weigh up all the conflicting considerations.

Any views that you have on an application should be sent directly to the Council's Director Regeneration and Planning and any correspondence or information that I have received will also be passed on to the appropriate officer.

I am required by the Council's Code of Practice not to lobby or attempt to influence Planning Officers or fellow Councillors. I therefore cannot act as an advocate or agent on your behalf.

If I am a Member of the appropriate Planning Committee I may refer you to another Councillor who will help you make out your case.

If I am involved in making a decision on an application I cannot accept any gifts or hospitality from you or be seen to meet you or to meet you on or off site or otherwise give the impression of influence or bias.

I hope this clarifies my role as Councillor in the planning process.

**APPENDIX 4: EXAMPLES OF CASES CONSIDERED BY THE LOCAL GOVERNMENT
OMBUDSMAN**

The following are examples of cases (from other authorities) considered by the Local Government Ombudsman:-

‘NOT INCLUDED IN THE DRAFT DOCUMENT’

APPENDIX 5: SCHEME OF DELEGATION**Development Control Scheme of Delegation**

As of May 2002 Hartlepool Borough Council has operated revised arrangements for dealing with planning applications.

The new arrangements have been introduced with a view to increasing the number of applications dealt with by Officers in accordance with Government guidelines and targets.

Planning Committee	
Membership:	16 Councillors: - Iseley (Chair), R Cook (Vice-Chair), D Allison, Akers-Belcher, S Cook, Henery, Kaiser, Lauderdale, Lilley, Dr Morris, Payne, Richardson, M Waller, R. Waller, E. Wright and Worthy.
Quorum:	7
FUNCTIONS	DELEGATIONS
1. All functions relating to town and country planning and development control (as set out in Part A of Schedule 1 to the Regulations).	<i>Director of Regeneration and Planning Services</i> 1. Power to carry out all of the functions of the Committee in paragraphs 1-5 adjacent, subject to the following exceptions:
2. Powers relating to the protection of important hedgerows (as set out in Part I of Schedule 1 to the Regulations).	i) in the case of any relevant application which is submitted to the Council for determination, any matter which any member requests should be referred to the Committee for decision, such request to be received within 21 days of publication of details of the application,
3. Powers relating to the preservation of trees (as set out in Part I, Schedule 1 to the regulations).	ii) any matter which falls significantly outside of established policy guidelines or which would

	otherwise be likely to be controversial,
4. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.*	iii) the determination of applications submitted by the Council in respect of its own land or proposed development, except those relating to operational development to which there is no lodged objection,

Planning Committee (continued)	
Function	Delegation
5. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.*	iv) the refusal of an application except with the agreement of the Chair of the Committee.
	v) except in cases of urgency <ul style="list-style-type: none"> a) power to require the discontinuance of a use of land b) power to serve a stop notice c) power to issue an enforcement notice d) power to apply for an injunction restraining a breach of planning control e) power to require proper maintenance of land f) power to serve a building preservation notice and related powers g) power to issue enforcement notice in relation to demolition of unlisted building in conservation area h) powers to acquire a listed building in need of repair and to serve a repairs notice i) power to apply for an injunction in relation to a listed building, <p>exercise of such powers to be reported for information to the next available meeting of the Committee.</p>

Planning Committee (continued)	
Function	Delegation
<p>6. Powers, related to Commons Registration as set out in part B of Schedule 1 to the Regulations. [1B.37 & 38]</p>	<p>2. Power to formulate decision notices following decisions made in principle by the Committee.</p>
<p>7 Functions relating to public rights of way (as set out in Part 1 of Part I of Schedule 1 to the 2001 Regulations).</p>	<p><i>Director of Neighbourhood Services</i></p> <p>1. Power to negotiate and set charges for diversion or related matters and to take action regarding blockages or Rights of Way issues other than those related to countryside management.</p> <p>2. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way (other than those delegated to the Director of Community Services), following discussion of the issues with the Chair of the Committee.</p>
	<p><i>Director of Community Services</i></p> <p>1. In relation to matters which are relevant to countryside management, power to negotiate and set charges for diversion or related matters and to take action regarding blockage on Rights of Way issues.</p> <p>2. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way which are relevant to countryside management.</p>

Planning Committee (continued)	
Function	Delegation
	<p><i>Chief Solicitor</i></p> <ol style="list-style-type: none"> 1. Power to confirm without modification unopposed creation, diversion or extinguishment Orders in respect of Public Rights of Way, following the statutory advertising period. 2. Power to confirm, without modification, unopposed footpath and footway conversion orders following the statutory advertising period. 3. Power to confirm, without modification, all future unopposed Definitive Map Modification Orders following the statutory advertising period.
<p>8 The licensing and registration functions set out in Part B of Schedule 1 to the regulations at points 41 and 47-55 relating to the New Roads and Street Works Act 1991 and the Highways Act 1980.</p>	<p><i>Director of Neighbourhood Services</i></p> <p>Power to carry out all of the functions of the Committee with the exception of any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial.</p>

APPENDIX

THE GENERAL PRINCIPLES

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's statutory officers, and its other employee.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their Authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Report of: Assistant Director (Planning and Economic Development)

Subject: DEVELOPMENT CONTROL HALF YEARLY PERFORMANCE REVIEW

1 PURPOSE OF REPORT

- 1.1 To advise Members of performance within the Development Control Services for the year to date.

2 INFORMATION

- 2.1 Development Control performance is monitored on a quarterly basis by the Government and through the Council's Performance Plan.

- 2.2 There are 4 key measures, 3 in terms of the time taken to determine planning applications and the Council's success rate in defending its decisions at appeal.

- 2.3 The performance for the half year to date is shown below. Targets are identified by the figures in brackets.

i) Percentage of major planning applications decided within 13 weeks	100% (60%)
ii) Percentage of minor planning applications decided within 8 weeks	75.61% (65%)
iii) Percentage of other applications decided within 8 weeks	87.69% (80%)
iv) Percentage of appeals allowed against recommendation	75% (33%)

- 2.4 Performance to date has been good in relation to the handling of planning applications and it is expected that this will be maintained throughout the year. Performance in respect of major planning applications will not however be maintained at such a high level as there are a significant number of major applications coming to a conclusion following complex negotiations e.g. S106 agreements in relation to the Victoria Harbour development, Middle Warren Green Wedge etc.

- 2.5 Performance in relation to appeals is disappointing and appears due to a number of factors. For example officers were instructed to write to the MP in relation to two decisions which appeared widely at odds with the new Local Plan. It is unlikely that performance will improve significantly during the rest of

the year. With this in mind officers are reviewing all recommendations for refusal to ensure they are as robust as possible.

- 2.6 Members will appreciate that performance also forms the basis for the payment of Planning Delivery Grant (£288000 in 2005/06). Appeals performance is likely to have a negative impact on the award for 2006/07.

3 RECOMMENDATION

- 3.1 Members note this report.

Report of: Assistant Director (Planning and Economic Development)

Subject: UPDATE ON PROGRESS ON DEALING WITH DERELICT AND UNTIDY BUILDINGS AND LAND

1. PURPOSE OF REPORT

- 1.1 To keep Members informed of progress in relation to targeted action against high profile derelict and untidy buildings and land in the town.

2 INFORMATION

- 2.1 Members are aware of the targeted initiative to secure improvements in the appearance/use of derelict and untidy buildings and land. Attached is an update in relation to each of the sites.
- 2.2 Discussions are ongoing about identifying a further list of buildings and sites and this will be presented to Members in due course.

3 RECOMMENDATION

- 3.1 Members note this report.

SECTION 215 PLANNING UPDATE/SUMMARY**10/11/2006****INDEX**

- 1 Golden Flatts
- 2 Longscar Centre, Seaton Carew
- 3 Morrison Hall, Church Close
- 4 Former Gas Showroom, 2 Victoria Road
- 5 The New Fleece Public House
- 6 Niramax, Mainsforth Terrace
- 7 Odeon Cinema, Raby Road
- 8 Old United Reformed Church & Former Independent School
- 9 Crown House, Surtees Street
- 10 Victoria Buildings

1. Golden Flatts

Solicitors wrote to Brenda Road Properties on 22 August 2006 regarding the ongoing issues of fly posters to the ground floor level, the large banner advertisement at first floor level, fly tipping to the rear of the car park and the removal of the security boarding from one of the ground floor windows. This required Brenda Road Properties to remove the advertisements, clear away fly tipped materials and reinstate the security boarding over the ground floor window within 14 days of the letter being received. These works have been carried out and the building is free from fly posting. It is still hoped that the early demolition of the building in advance of an approved housing redevelopment will remove the problem altogether. Legal issues related to the requirement for a legal agreement under Planning Act have delayed this. It is still hoped that early demolition can still be achieved and discussions to this effect are ongoing with the housing developer as the planning permission has just been issued.

2 Longscar Centre, Seaton Close

All works have been carried out to the Council's satisfaction therefore the file has been closed.

3 Morrison Hall, Church Close

Fencing has been provided and painting of temporary boarding and the fencing has taken place. With regard to the remaining outstanding issues, accumulated rubbish and unauthorised access a letter requiring the works to be carried has been ignored so a Section 215 Notice has been served.

4 Former Gas Showroom, Victoria Road

Works are underway in connection with a planning permission for a public house development here. A further permission for amendments to the approved scheme has recently been agreed and progress is being monitored.

5 The New Fleece Public House

The advertisement hoarding that was in place on the side of the building has been removed. Permission has been granted for a residential redevelopment here and demolition of the public house has started.

6 Niramax, Mainforth Terrace

Permission has been granted for a residential development here. The site has been cleared of tyres but the wall around the site, which is to be demolished as part of the housing scheme remains. A revised application is currently under consideration. In the meantime the wall has been tidied and made secure. The position is being monitored.

7 Odeon Cinema, Raby Road

An exercise to evaluate the sites potential is underway. The owners have been asked to provide protective netting under the canopy to prevent materials falling onto the highway and to prevent bird access to the building by boarding up the broken windows.

8 Old United Reform Church & Former Independent School

The appeal relating to the property's use as flats did succeed. Action has therefore been linked in the first instance to seeking removal of rubbish at the basement level of the property. The rubbish has been removed.

9 Crown House, Surtees Street

The property has been significantly improved, by removal of external cladding. No further action is necessary at this time although the position is being monitored and it is hoped that specific redevelopment proposal will be forthcoming.

10 Victoria Buildings

Grant assistance has been agreed by SRB but questions have been raised by the Heritage Lottery Fund. It is anticipated the scheme will proceed. However the position continues to be monitored.

Report of: Assistant Director (Planning and Economic Development)

Subject: PROPOSED ART FEATURE – FORMER SEATON CAREW BATHS SITE

1. PURPOSE OF REPORT

- 1.1 Members will recall that at the Planning Committee meeting on 26 April 2006 that planning permission was granted for a development comprising two restaurants and a bar on the former Baths site at Seaton Carew. The permission was subject to a number of planning conditions and a planning agreement to secure a financial contribution to the provision of bus stop improvements in the locality and the provision of an art feature.
- 1.2 The purpose of this report is to advise Members that an architect has been commissioned by the developer to produce a stainless steel sculpture for the site. A model representation of the proposed finished art feature has been produced and will be circulated at the meeting.
- 1.3 The artist, who specialises in working with stainless steel, has proposed a sculpture which consists of a sphere constructed in 'slice form' consisting 18 intersecting hollow circles.
- 1.4 The sculpture would be placed on a stone plinth and would have an overall height of some 1.7 metres. It is to be located on the seaward side of the building, within the site and between the proposed building and the esplanade.
- 1.5 The cost of the sculpture, circa £10,000, is to be entirely financed by the developer.
- 1.6 It is considered that this would be an attractive art feature in a gateway location that will help to enhance the setting of the development.

2 RECOMMENDATION

- 2.1 That Members note the report.

Report of: Assistant Director (Planning and Economic Development)

Subject: APPEAL BY ALAB ENVIRONMENTAL SERVICES

1.0 PURPOSE OF REPORT

1.1 A planning appeal has been lodged against the refusal of the Local Planning Authority to grant planning permission for the installation of treatment plant for the solidification / stabilisation of liquid wastes at Seaton Meadows.

1.2 The appeal is to be decided by public inquiry and authority is therefore requested to contest the appeal. Members will recall that the reasons for the planning application being refused were on grounds of the perceived impact on the amenities and health of local residents and the tourism economy. Given the nature of these refusal reasons, the fact that officers had recommended approval of the scheme and that the fact that they would not therefore be able to defend the Local Planning Authority's position under cross examination officers are not in a position to prepare and present the LPA's case on this occasion. This situation was acknowledged by Members at the meeting.

1.3 A number of consultancies have therefore been approached over whether they would wish to tender to prepare and present the Local Planning Authority's case. The outcome of this exercise will be reported to the Committee.

2.0 RECOMMENDATION

2.1 Authority be given to officers to appoint consultants as appropriate to prepare and present the Local Planning Authority's case at appeal.

Report of: ASSISTANT DIRECTOR (PLANNING AND ECONOMIC DEVELOPMENT)

Subject: APPEAL BY GORKHAN TIKNA, SITE AT 93 YORK ROAD, HARTLEPOOL, TS26 8AD

1. PURPOSE OF REPORT

1.1 A planning appeal has been lodged against the refusal of a planning application (H/2005/5940) to extend the hours of operation of a hot food takeaway at the above premises to 1am on Monday, Tuesday, Wednesday and Thursday mornings and until 3am on Friday, Saturday and Sunday mornings.

1.2 The appeal is to be decided by written representations and authority is therefore requested to contest the appeal.

2. RECOMMENDATION

2.1 That authority be given to officers to contest this appeal.

No:
Number: H/2006/0717
Applicant: Mrs R Creevy MCDONALD PLACE HARTLEPOOL
 TS24 0PZ
Agent: 8 MCDONALD PLACE HARTLEPOOL TS24 0PZ
Date valid: 19/09/2006
Development: Replacement of rear windows
Location: 8 MCDONALD PLACE HARTLEPOOL

Background

1.1 It has been agreed by the Chair that this application should be reported to Committee as an item of any other business as it is similar in many ways to the application at Mayfield House on today's agenda.

The Application and Site

1.2 The application site is a traditional terraced property located within the Headland Conservation Area. It is subject to an Article 4 direction. The property has been extended to the rear through the addition of a flat roofed extension which extends the full length of the yard. To the west and east are adjoining neighbours. To the rear is a yard.

1.3 It is proposed to change the rear windows of the property. The windows to the rear are largely modern and are a mix of fixed, top hung and centre hung windows. The loft dormer window is an older small sash window. The windows will be replaced by timber side hung casement double glazed windows with horizontal bars.

Publicity

1.4 The application has been advertised by neighbour notification (4), site notice and in the press. The time period for representations has expired.

One response was received. No objections.

The period for publicity has expired.

Consultations

1.5 The following consultation replies have been received:

Headland Parish Council : No comments received

Landscape Planning & Conservation: This property is located in the Headland Conservation Area and is subject to an Article 4 Direction. No objection to the proposed windows. Most of these windows are to new openings on the property. In visual terms it would make sense for all windows on this elevation to appear the same particularly given the dominance of the modern extension.

Planning Policy

1.6 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.

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

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

Planning Considerations

1.7 The windows proposed are something of a compromise. Ideally sliding sash windows would be used but the existing openings are modern and would require additional alterations to accommodate sliding sash windows which the applicant is unwilling to undertake due to the cost and inconvenience. In the interests of consistency the one remaining sash will be replaced with similar side hung casement windows. Though not sliding sash it is considered that the windows replaced are a significant improvement on the existing modern windows. It is not considered that the proposal will detract from the character and appearance of the Conservation Area.

1.8 The proposal involves the replacement of windows within existing openings and permission is only required in this case because of the Article 4 Direction. It is not considered the neighbour to the west (no 7) will be affected as no windows face this way. The bathroom and toilet windows look towards the neighbour to the east (no 9) and whilst views of the yard will be largely screened by this neighbour's own single storey extension potentially oblique views towards this neighbour's rear first floor bedroom window will be possible particularly from the furthest bathroom window. The applicant however is happy to accept a condition that these windows will be obscure glazed, as is currently the case. This will address any concerns regarding privacy.

1.9 It is considered that the proposal is acceptable.

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 windows shall be constructed of timber and shall be painted white or such other colour as may be agreed in writing with the Local Planning Authority.
In the interests of the character and appearance of the Headland Conservation Area.
3. Unless otherwise agreed in writing the proposed first floor bathroom and toilet windows facing 9 McDonald Place shall be glazed with obscure glass which shall be installed at the time of the installation of the windows and shall thereafter be retained at all times which the windows exist.
To prevent overlooking