

# PLANNING COMMITTEE

## AGENDA



**Wednesday 13 March 2024**

**at 10.00 am**

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

### MEMBERS OF PLANNING COMMITTEE:

Councillors Boddy, Brown, Darby, Feeney, Little, Martin-Wells, Morley, V Nicholson, Oliver, Thompson and Young.

#### 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 7 February 2024

#### 4. ITEMS REQUIRING DECISION

##### 4.1 Planning Applications – *Assistant Director, Neighbourhood Services*

- |    |             |                             |           |
|----|-------------|-----------------------------|-----------|
| 1. | H/2023/0028 | Land at Hart Reservoirs     | (page 1)  |
| 2. | H/2023/0285 | 2 York Place, Headland      | (page 31) |
| 3. | H/2023/0416 | 78 Grange Road              | (page 41) |
| 5. | H/2023/0314 | 91 Elwick Road              | (page 59) |
| 5. | H/2020/0444 | Mayfair Bungalow, Tees Road | (page 75) |

#### 5. ITEMS FOR INFORMATION

- 5.1 Update on Current Complaints and Enforcement Actions – *Assistant Director (Neighbourhood Services)*

#### CIVIC CENTRE EVACUATION AND ASSEMBLY PROCEDURE

In the event of a fire alarm or a bomb alarm, please leave by the nearest emergency exit as directed by Council Officers. A Fire Alarm is a continuous ringing. A Bomb Alarm is a continuous tone.

The Assembly Point for everyone is Victory Square by the Cenotaph. If the meeting has to be evacuated, please proceed to the Assembly Point so that you can be safely accounted for.

5.2 Conservation Area Management Plans – *Assistant Director (Preventative and Community Based Services)* (Please note the appendices to the report are not attached due to their size. If you wish to receive a copy, please email [democratic.services@hartlepool.gov.uk](mailto:democratic.services@hartlepool.gov.uk))

5.3 Appeal at land at Hart Moor Farm, North of the A179 - *Assistant Director (Neighbourhood Services)*

**6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

**FOR INFORMATION**

Any requests for a Site Visit on a matter then before the Committee will be considered with reference to the Council's Planning Code of Practice (Section 16 refers). No requests shall be permitted for an item requiring a decision before the committee other than in accordance with the Code of Practice

Any site visits approved by the Committee at this meeting will take place on the morning of the Next Scheduled Meeting on 17 April 2024



# **PLANNING COMMITTEE**

## **MINUTES AND DECISION RECORD**

### **7 February 2024**

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

**Present:**

Councillor Paddy Brown (In the Chair)

Councillors: Moss Boddy, Rob Darby, Tom Feeney, Sue Little,  
Andrew Martin-Wells, Melanie Morley, Karen Oliver,  
Veronica Nicholson and Carole Thompson

Also Present: In accordance with Council Procedure Rule 4.2 Councillor David  
Nicholson was in attendance as substitute for Councillor Mike Young

Officers: Kieran Bostock, Assistant Director, Neighbourhood Services  
Zoe Craig, Environmental Health Manager (Environmental Protection)  
Daniel James, Planning (DC) Team Leader  
Laura Alderson, Senior Planning Officer  
Josh Fraser, Legal Advisor  
Jo Stubbs, Democratic Services Officer

### **56. Apologies for Absence**

Apologies were submitted by Councillor Mike Young.

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

None

### **58. Confirmation of the minutes of the meeting held on 10 January 2024**

Minutes confirmed

### **59. Planning Applications** (*Assistant Director, Neighbourhood Services*)

**Number:** H/2023/0182

**Applicant:** HARTLEPOOL OLD BOYS RFC EASINGTON ROAD  
HARTLEPOOL

**Agent:** MR SIMON WATTS 10 NIGHTINGALE CLOSE  
HARTLEPOOL

**Date received:** 11/09/2023

**Development:** Erection of balcony to first floor

**Location:** HARTLEPOOL OLD BOYS R F C MAYFIELD PARK  
EASINGTON ROAD HARTLEPOOL

This item had been deferred at the previous meeting for a site visit. Members were informed of an incorrect reference and subsequent correction to the orientation of the site at paragraph 1.6 of the Officer's report and a minor typographical error and subsequent amendment to the proposed condition 4.

Councillor Brenda Harrison thanked the Chair for allowing this item to be brought before the Committee. While there had been only 2 official objections there were concerns among other residents who had not objected. There had been issues with noise nuisance and parking relating to the club for a number of years which impacted on local residents and she was concerned that this application would only increase these problems. She queried how robust the proposed privacy screen would be and urged officers to include a number of caveats should the application be approved.

Resident Susan Imray was pleased the club was doing well but wanted them to be good neighbours. She confirmed that sometimes her family struggled to hear their TV over the noise coming from the club and they were unable to enjoy their garden for the same reason. She had contacted Public Protection regarding these issues and the club had been asked to keep the fire doors closed. However, the current balcony faced directly onto their bedroom window so sometimes they were unable to leave the windows open at night due to the noise, particularly when people were leaving the club.

A member referred to the comments around parking issues. Mrs Imray advised that these were particularly bad on a Sunday morning when cars were parked on pavements and over driveways. While this was not relevant to the application under consideration today the member asked that highways pick this up separately.

A member indicated that officers had advised that a licensing review would need to take place following completion of the balcony. The Environmental Health Manager advised that a review would need to be completed before construction began. The applicant had already been contacted by the Licensing Team and had agreed to submit a review application. The Environmental Health Manager expected the proposed balcony to have the same licensing conditions as the existing one i.e. no use after 9pm, doors to remain closed and no tannoy or music. She also noted that a review could be requested at any time, by a member of the public or interested parties. Councillor Harrison requested that herself and Mrs Imray be kept informed of

any further action in this regard including meeting dates of a licensing committee.

A member asked if the balcony doors could be locked but was advised that this would be a fire hazard. Keeping them closed would be a licensing condition. A member queried whether there would be a smoking area made available in the club to stop people smoking on the balcony after 9pm. The Environmental Health Manager presumed that the club already had a designated smoking area. However, if this caused issues in the future investigations could take place.

A member suggested that a privacy screen be put on the existing balcony as well as the proposed balcony under consideration. The Environmental Health Manager indicated that this would require a review of the current licence relating to the existing balcony and this had not been requested.

The Chair queried the robustness of the proposed privacy screen. The Planning Team Leader confirmed it was solid metal but did not have acoustic properties. It would assist in preventing direct views and a perception of overlooking into nearby properties and had to be in place before the balcony came into use. He also noted that this had been an established commercial premises for a number of years, surrounded by established residential homes for a number of years.

Councillor Andrew Martin-Wells moved the officer recommendation to approve. Councillor Rob Darby seconded this. A recorded vote to approve the application, as per the officer recommendation, was taken:

For – Councillors Moss Boddy, Paddy Brown, Rob Darby, Tom Feeney, Sue Little, Andrew Martin-Wells, Melanie Morley, Karen Oliver, Carole Thompson and David Nicholson

Against – Councillor Veronica Nicholson

Abstain – None

**Decision:** **Planning Permission Approved (subject to a minor amendment to condition 4)**

## **CONDITIONS AND REASONS**

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the following plans: Location Plan at scale of 1:1250, received by the Local Planning Authority 01/08/23, and drawing number 2301.P01, revision B (Proposed Site Plan), drawing number 2301.P02, revision B

(Proposed Plans), drawing number 2301.P03, revision B (Proposed Elevations), received by the Local Planning Authority 06/11/23. For the avoidance of doubt.

3. No speakers or tannoy/public address system shall be installed or used on the outdoor balcony area at any time.  
In the interests of the amenity of neighbouring occupiers.
4. Prior to the balcony hereby approved being brought into use or prior to its completion (whichever is the sooner), the 1.8m high 'steel privacy screen' along the 'Proposed East Elevation', 'Proposed South Elevation' and 'Proposed North Elevation' as detailed on drawing number 2301.P03, revision B (Proposed Elevations, received by the Local Planning Authority 06/11/2023) shall be installed and thereafter maintained and remain in situ for the lifetime of the development hereby approved.  
In the interests of the privacy of neighbouring occupiers.

Members considered representations on this item.

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## **60. Update on Current Complaints and Enforcement Actions** *(Assistant Director, Neighbourhood Services)*

Members were informed of 9 investigations currently underway and 4 which had been completed. There had been no enforcement actions taken. A member noted there were a number of potentially substantial investigations currently underway and suggested that site visits might be prudent. Officers advised that, constitutionally, decisions on enforcement action were not the responsibility of the Planning Committee. Furthermore these investigations were at an early stage so any visit of this type would look heavy handed in terms of public perception. Should a member wish to visit the sites themselves they could do so provided there was public access. The report provided to members was suitably vague given the early stage of the ongoing investigations and the completion with no further action of others.

### **Decision**

That the report be noted.

## **61. Linked appeals at land near Sheraton Hall Farm, land near Hart Moor Farm and land near Hulam Farm** *(Assistant Director, Neighbourhood Services)*

Members were advised of the outcome of 5 linked planning appeals, 3 of which were in the jurisdiction of Hartlepool, relating to solar farms, a

substation and the linking of them. These had been originally refused on the basis of visual grounds and them being contrary to policy. The inspector had allowed these appeals following an inquiry in October 2023 however the application for costs was dismissed.

### Decision

That the outcome of these appeals be noted.

## 60. **Update on Oppen Compliance and Enforcement**

(Assistant Director, Neighbourhood Services)

Members were advised that a planning appeal in respect of an application for permission for the removal of dormer had been dismissed. The Enforcement Team had been informed and would take appropriate action.

A member noted there were a number of potentially substantial investigations currently underway and suggested that site visits might be prudent. Officers

### Decision

advised that decisions on enforcement action were no longer the responsibility of the Planning Committee. Furthermore these investigations were at an early stage so any visit of this type would look heavy handed in terms of public perception. Should a member wish to visit the sites themselves they could do so provided there was public access. The report

## 61. **Planning Appeal at Flat 3, 24 Beaconsfield Street**

(Assistant Director, Neighbourhood Services)

Members were advised that a planning appeal in respect of the Council's decision to refuse an application for the retrospective application for the replacement of 4 timber windows for 4 uPVC windows had been dismissed. Enforcement would now take place to have these removed and the previous windows reinstated. The Planning Team Leader noted the large amount of appeals of this type which had been dismissed, including a recent appeal that took account of recent NPPF changes, based on the requirement in planning legislation that conservation areas should be protected regardless of concerns over energy efficiency. A member suggested that consideration be given to future committee decisions on these matters and ways these areas could be preserved whilst appreciating the cost dilemmas for residents.

### Decision

That the outcome of this appeal be noted

## 62. **Linked appeals at land near Sheraton Hall Farm, land**

**Planning appeal at 20 Waterside near Glose Farm** (Assistant Director, Neighbourhood Services)

Members were advised that a planning appeal in respect of the Council's decision to refuse an application for the erection of a part two storey and part single storey rear extension had been dismissed.

substation and the linking of them. These had been originally refused on the basis of visual grounds and them being contrary to policy. The inspector had

### Decision

allowed these appeals following an inquiry in October 2023 however the application costs were disallowed.  
That the outcome of this appeal be noted

**63.. Appeal at the Bungalow, Low Throston House, Netherby Gate** (*Assistant Director, Neighbourhood Services*)

That the outcome of these appeals be noted.  
Members were advised that a planning appeal in respect of an application for planning permission for the change of use of land to extend curtilage and the enclosure of land into residential curtilage had been dismissed, along with the appeal for associated costs. The Planning Team Leader advised that as the site in question is protected as a schedule monument (Low Throston deserted medieval village) instruction would be taken from Historic England on a 4 step process to safely return the site to its previous condition. If the applicant complies with this 4 step process no formal enforcement action would be taken.

**Decision**

That the outcome of this appeal be noted.

**64. Planning Appeal at Land adjacent to Care Park Wiltshire Way/Grass Verge Hart Lane** (*Assistant Director, Neighbourhood Services*)

Members were advised that a planning appeal had been submitted against the Council's decision to refuse a prior notification application for the installation of telecommunication equipment. This had been refused under delegated powers

**Decision**

That the report be noted.

The meeting concluded at 11am.

CHAIR

**No:** 1.  
**Number:** H/2023/0028  
**Applicant:** MISS HALL  
**Agent:** PERSIMMON HOMES MISS HALL  
**Date valid:** 27/07/2023  
**Development:** Engineering works to infill and level the disused and drained lower reservoir  
**Location:** LAND AT HART RESERVOIR HARTLEPOOL

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## PURPOSE OF REPORT

1.1 An application has been submitted for the development highlighted within this report accordingly Hartlepool Borough Council as Local Planning Authority is required to make a decision on this application. This report outlines the material considerations in relation to the proposal and presents a recommendation.

## BACKGROUND

1.2 The following planning applications are considered relevant to the current proposals:

H/2015/0354 – Outline planning application with some matters reserved for residential development (up to 52 dwellings) with associated access and highway works and creation of wildlife ponds, park, footpaths, public car park, landscaping and open space areas, approved January 2021.

H/2020/0071 – Proposed discontinuance and infilling of Hart Reservoirs, refused 08/03/2021 for the following 3 reasons;

1. *The application site is considered to be a locally listed building and therefore a non-designated heritage asset. In the opinion of the Local Planning Authority, the application fails to satisfactorily consider the scale of harm on the heritage asset resulting from the proposed discontinuance and removal of historic features of the reservoirs. No public benefits of the proposals have been identified to outweigh such harm and the LPA cannot be sure that an acceptable form of development would go ahead following the loss of the asset. As such, the development does not accord with the requirements of Policies HE1 and HE5 of the Hartlepool Local Plan (2018) or paragraphs 195, 196, 197 and 198 of the NPPF.*
2. *In the opinion of the Local Planning Authority, insufficient and out of date ecological information has been provided in support of the application and therefore it is not possible to conclude whether the proposals have the potential to cause ecological harm. The application therefore fails to demonstrate that the proposals will not cause significant ecological harm and is therefore in conflict with Policy NE1 of the Hartlepool Local Plan and NPPF paragraph 175(a).*
3. *The application fails to demonstrate a measurable biodiversity net gain in conflict with NPPF paragraphs 170(d) and 175(d).*

H/2023/0368 – Proposed residential development of 70no. dwellings and associated infrastructure, application pending consideration.

## PROPOSAL

1.3 This planning application seeks permission for engineering works to infill (total fill volume of approximately 101,500m<sup>3</sup>) and level the lower reservoir at the Hart Reservoirs site, which is currently disused and has been drained. The submitted details indicate that the works would involve importing a 'deficit' of fill material of approximately 98,000 cubic metres to level the land of the former reservoir area in order to facilitate future development (it is noted that another application [H/2023/0368] is currently pending for the same site and relates to proposed residential development of the site).

1.4 A number of structures associated with the former reservoirs are to be removed, including walkways and fencing, inlet pipes and headwall, spillway and outlet pipes. Two pump towers, one within the site and another adjacent to the site (within the former upper reservoir) are to remain in situ. The submitted plans indicate that a 'spillway' and outlet are also to remain in situ until such time that any subsequent planning permission for further development of the site is approved. It is understood from the applicant that the infilled area is to be finished with topsoil and the applicant proposes to agree final finishing details via condition.

1.5 The application has been referred to Planning Committee due to the number of objections received (more than 3) in line with the Council's scheme of delegation.

## SITE CONTEXT

1.6 The application site relates to land at Hart Reservoirs, located off Hart Lane, Hartlepool. The total site area is approximately 4.1ha. The wider site primarily consists of the two former water bodies that formed the reservoirs, which are now in private ownership as well as an area of grassland to the north. The larger upper reservoir to the west of the site does not form part of this application. The surrounding land gently undulates, sloping from north west to south east.

1.7 The former reservoirs lie in a modest, steep-sided valley. The former reservoirs are separated by an internal road that extends up from the small, gated site access (taken from Hart Lane) which serves the site and a single dwelling, known as Hart Reservoirs House located to the north east of the site (which falls outside of the current application site boundary and in separate, private ownership to the current applicant). There are a number of features within the reservoirs including dams, sluices, overflow and valve structures.

1.8 Beyond the site boundaries to the south and to the east is a public footpath (understood to be partially within HBC ownership) with residential properties located beyond; properties within Nightingale Close, Kestrel Close and Swallow Close are present beyond the southern boundary and mature tree planting to the south with properties in Kingfisher Close present beyond the eastern site boundary.

1.9 The site is accessed from Hart Lane which runs to the west of the site with High Throston Golf Club and Hart Quarry located beyond this highway. The nearest property to the north west (along Hart Lane) is 'Keepers Cottage'.

## PUBLICITY

1.10 The application has been advertised by way of neighbour letters (23), 2 site notices and press advert. Following the submission of additional plans to detail the extent of the area to be infilled as well as further levels details, a further 14 day consultation was carried out (expiring 22/02/2024).

1.11 To date, a total of six objections received from members of the public. The concerns and objections raised can be summarised as follows:

- Loss of wildlife due to draining of reservoirs,
- Nothing has changed since previous refusal for infilling,
- Site has not been well maintained,
- Affordable housing should be included in future development of the site,
- Lack of consultation,
- Missed opportunity to develop the biodiversity of the area or create a nature reserve,
- Potential contamination from infill materials,
- Previous works carried out at the site without planning permission,
- Potential for mud on the road to create a safety issue,
- Noise from large vehicles,
- Previous works at the site have been carried out at unsociable hours and any future construction works should have an hours restriction on it,
- Excessive mud from alleged works undertaken to date
- Concerns about speed limit of the access road and creating a safe entrance to the site, particularly for any future residential development on the site.

1.12 Background papers can be viewed via the 'click to view attachments' link on the following public access page:

[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2023/0028](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2023/0028)

1.13 The period for publicity has expired.

## CONSULTATIONS

1.14 The following consultation replies have been received:

**HBC Engineering Consultancy** – In response to your consultation on the above application:

### Contaminated land

The planning statement section 3.1 states that infrastructure from the former reservoir is not proposed to be removed. It is unclear what is proposed for the reservoir valve/pump tower that appears to be of a height similar to the proposed fill

level of the land. The applicant must clarify what is proposed for this asset. It is not acceptable that the shaft remain and possibly be accessed after infilling of the reservoir or represent a significant hazard during any future development works. This can be confirmed for agreement at a discharge of condition stage as part of a construction management plan. Please condition the requirement for a construction management plan on any permission issued for proposals. The applicant is advised that any shaft will need to be removed or filled as will any inlets into the reservoir.

It is not clear what material is to be used for the infill works and where it will come from, it is acknowledged that the source may not yet be known. To ensure that no inappropriate material is imported on to the site please include the following condition on any permission issued for proposals:

*Prior to the commencement of development, a scheme of independent verification to demonstrate that materials/soils emplaced on the site as part of the proposed development meet the standards required by BS3882:2015 Specification for Topsoil and BS8601:2013 Specification for Subsoil and Requirements for Use (or any subsequent update or replacement for those specifications, or any alternative proposals to ensure non-contaminated and suitable materials are used as agreed with the planning authority). The scheme shall also provide detail of proposed planting, grass seeding or otherwise and the proposed verification and maintenance of that landscaping.*

*To ensure any site contamination is satisfactorily addressed.*

#### Surface water management

The flood risk assessment and drainage strategy submitted with the application proposes unrestricted surface water runoff from the area of infilled reservoir into the adjacent watercourse to the north prior to residential development. This is not acceptable in terms of off-site flood risk and measures must be put in place to restrict this flow to agreed greenfield runoff rates. Whilst a completed development with established vegetation may achieve this, that will not be readily established and development proposals of compacted soil will generate a significant amount of surface water runoff that does not usually drain to that watercourse, Hart Burn. That watercourse leads into Hartlepool itself where there is existing river flood risk to the hospital, homes and industrial units, this flood risk must not be exacerbated by development proposals. Furthermore, the size of the development requires that both national and local sustainable drainage (SuDS) policy applies. As such please include the following condition on any permission issued for proposals:

*Notwithstanding the submitted information, no development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design shall demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.*

*The scheme shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in the Tees Valley SuDS Design Guide and Local Standards (or any subsequent update or replacement for that document).*

*To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.*

The applicant is advised that this will necessitate surface water flow restriction, attenuation assets, and survey and maintenance proposals for Hart Burn into which it is proposed to drain.

*Updated Comments received 15/11/2023*

In response to your consultation on the above amended application:

**Contaminated land**

We have no objection in principle in this respect. The submitted Design Statement that considers infilling of the reservoir is satisfactory and as such we will not require the previously recommended contaminated land condition on any permission issued for proposals. Please can you condition that soil import is carried out in accordance with the submitted Design Statement (for information noting section 6: verification of the scheme).

In respect of existing reservoir assets, the applicant has stated in an email to myself that

*In regards to the pump tower I think there has been some confusion on this, all ancillary equipment including pipes, inlets etc will be removed as part of the works. The pump tower however has been identified as heritage monument therefore we have tried to accommodate this within the scheme. We have engaged with a structural engineer on these works and I am happy to run through this further once we get a meeting scheduled.*

Proposals will need to be formalised with the Planning Authority prior to development.

**Surface water management**

We have no objection in principle in this respect. The flood risk assessment submitted is satisfactory in itself however we will require further detail for approval prior to development and as such please can you include the following condition (as previously recommended) on any permission issued for proposals:

*Notwithstanding the submitted information, no development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design shall demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in*

*accordance with the approved detailed design prior to completion of the development.*

*The scheme shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in the Tees Valley SuDS Design Guide and Local Standards (or any subsequent update or replacement for that document).*

*To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.*

For information, matters to be addressed to discharge the recommended condition include (but are not limited to): exceedence flow routing, maintenance arrangements and responsibility, and pollution control (particularly silt) during both construction and operation. We also expect consideration of redundant reservoir inlets and outlets and their abandonment, and surface water management during the construction phase. I note that the Drainage Strategy in Appendix F shows a flow restriction utilising an 84mm orifice plate which is too small a diameter as it will become blocked readily, a vortex control will be required to achieve the required flow restriction. Condition survey and maintenance proposals for Hart Burn into which it is proposed to drain the development are required.

Updated Comments received 05/12/23 following submission of structure retention plan

That seems fine in itself, we've no further comments to add

**HBC Ecology** – The proposal is approximately 1ha in size and comprises the eastern Hart Reservoir basin with associated banks and access road. The wider development boundary is approximately 4.3ha in size and comprises a grassland field to the north bound by hedgerow, a narrow channel to the south, an area of dense scrub to the north east and a track running through the site with smaller areas of grassland throughout the site. The proposals comprise the infilling of the eastern Hart Reservoir. The habitats within the proposal comprise the cleared basin of the eastern Hart Reservoir, including a small man-made pond and a stone-built tower. A grassland margin supports ruderal species and scattered scrub is present around the edge of the reservoir. Within the wider site boundary there is a large unmanaged grassland field to the north which is bound by hedgerow and a modified channel to the south containing running water. To the east of this there is a small parcel of unmanaged scrub and additional areas of grassland although these are not proposed to be impacted by the infilling of the reservoir.

The area provides poor quality terrestrial habitat for Great Crested Newts due to the lack of vegetation. The pond on site has potential to provide breeding habitat for the species, although it is considered to be sub-optimal due to the likely poor water quality. No evidence of Badger or Badger setts were recorded on site. The reservoir basin is considered to be of low value to foraging Badger, however the wider offers various opportunities for foraging Badger, should the species be present on site.

The stone structure on site is considered to be of low suitability for Bats, although the proposals are thought to retain this structure and the potential bat roosting features.

The habitats within the reservoir basin and associated access roads are considered to be of low suitability to foraging and commuting Bats due to the sparsity of vegetated habitats. The pond may offer a sub-optimal foraging resource, although limited by its small size. The reservoir basin is not considered suitable for nesting for the majority of bird species due to the absence of vegetation. However, there is potential the basin could be used by nesting Little Ringed Plover. The local records search provided historic records of Adder and Slow Worm within 2km of the site. The search also produced seven records of Common Lizard. Due to the nature of the site and results of the local records search hedgehog is considered likely to be on site. The site has the potential to support priority butterfly species due to the mosaic of habitats present within the wider site.

Follow-up surveys have not been completed to determine the value of the site for small mammals (e.g. hedgehog), priority butterfly species, breeding birds and reptiles. No surveys have been completed to determine presence or absence of Great Crested Newt.

The current proposals will result in a net loss in biodiversity units with a net loss of 9.50 units representing a loss of -34.75%. In addition, the proposals do not satisfy the trading rules of the metric with a loss of medium and low distinctiveness habitats in place of very low distinctiveness habitats. No change is anticipated in the linear or watercourse categories. To deliver net gain in relation to the proposed development it is anticipated that off-site compensation will be required. To achieve net gain and to satisfy the trading rules of the metric, proposals will need to deliver more than 9.50 units and 12.23 units to reach the 10% net gain target.

The Environment Act 2021 includes Biodiversity Net Gain (BNG), with a requirement for at least 10% BNG post-development, however, the requirement will not come into force until 2023. Hartlepool Borough Council's (HBC) Local Planning Authority (LPA) expects 'no net loss' of biodiversity. Ecological enhancement (as per National Planning Policy Framework) is additional to BNG and is aimed at providing opportunities for protected and priority species, which are not otherwise secured under the purely habitat based BNG approach.

At this stage, I object to this proposal as there is insufficient information presented in the Ecological Appraisal to determine the ecological impact of the proposal on protected and priority species (e.g. Great Crested Newt, Slow Worm). Very limited information has been submitted covering breeding birds.

I request that the additional surveys recommended in the Ecological Appraisal are completed during appropriate times of the year and a detailed Ecological Impact Assessment is submitted to the LPA.

In addition a detailed management plan / proposal is submitted to address the loss of biodiversity resources described in the Biodiversity Net Gain Assessment report.

#### Updated Comments received 15/09/2023

Thank you for the response to the previous ecology consultation (16th August 2023).

I note in your response that a detailed breeding bird survey has been undertaken and the report will be submitted. The covering letter states that 7 red listed species were recorded on site. Were these breeding on site? What are the proposals for mitigation if breeding / nesting habitat is to be lost. Has the report been submitted to the planning portal?

I note that a reptile survey has been commissioned for September. I would be grateful if the report summarising this survey is submitted as soon as it is available. We would request that an ecological / landscape strategy is submitted for the development to outline the recommended mitigation.

The version of the BNG Assessment on the portal is 22221 BNG 4.0 Hart Reservoir Infill v1, but the covering letter indicates an updated version (BNG report 22221 BNG Reservoir Infill v2a). Please could you provide a copy of the updated BNG Report A EclA is referred, but has not been submitted. The LPA would need to review this document prior to approval.

Thank you for your report regarding Great Crested Newts, which can be scoped out.

Updated Comments received 07/12/2023

This application relates to engineering works to infill and level the disused and drained lower reservoir. The application proposes to fill the lower Hart Reservoir with 98,000 cubic metres of material to facilitate future use on the brownfield site. At this stage no further information has been provided with regard to the future use.

This application was subject to a previous objection (16th August 2023).

The objection was grounded on insufficient information presented in the Ecological Appraisal to determine the ecological impact of the proposal on protected and priority species (e.g. Great Crested Newt, Slow Worm) and breeding birds. Since August several ecological studies have been completed and reported. I have reviewed the following:

Ecological Appraisal

Bat Survey

Breeding Bird Survey

Biodiversity Net Gain Assessment

Great Crested Newt eDNA Survey

Watercourse Survey

These reports provide a baseline for the ecological value of the site to enable determination of the application. The reports contain sufficient information to remove our ecological objection to the above application for the proposed infilling of Hart Reservoir.

We support the recommendations provided in the reports and assume that these will be incorporated in the future applications, where they cannot be implemented as part of actions to discharge the conditions.

The Breeding Bird Survey recommends the provision of a financial contribution to the coastal management scheme to offset impacts on the designated sites. We support this proposal and will confirm how this may be implemented.

### Conditions

Condition 1 – CEMP. Prior to the start of engineering works to infill the reservoir a detailed Construction Environmental Management Plan (CEMP) shall be prepared and submitted to the LPA for approval, this shall include methods statements for a range of protected species and cover site clearance for Himalayan balsam to prevent its spread, reducing residual impacts on reptiles and amphibians as a consequence of clearance and impacts on disturbance / loss of breeding bird habitat.

Condition 2 – Landscape and Ecology Restoration and Management Plan. Prior to the start of engineering works to infill the reservoir a Landscape and Ecological Restoration and Management Plan (LERMP) shall be prepared and submitted to the LPA for approval. This plan shall illustrate the proposal described in the Biodiversity Net Gain Assessment report and demonstrate how the gains may be achieved. As a minimum, the plan shall show a gain of 1.18% in the habitat units, 2.53% in hedgerow units and 1.29% in watercourse units as presented in the Biodiversity Net Gain Assessment report (OS Ecology, July 2023).

### Updated comments received 12/02/2024

Please refer to my comments of 7th December 2023.

**HBC Heritage & Open Spaces** – The application site has previously been identified as a heritage asset. Information on rationale behind this and how it meets the relevant criteria can be found in Appendix 1. Policy HE1 of the Local Plan states that the Borough Council will seek to preserve, protect and positively enhance all heritage assets.

The National Planning Policy Framework (NPPF) looks for local planning authorities to take a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset (para. 203, NPPF).

Policy HE5 of the Local Plan states that the Borough Council will support the retention of heritage assets on the List of Locally Important Buildings particularly when viable appropriate uses are proposed. Where a proposal affects the significance of a non-designated heritage asset a balanced judgment should be weighed between the scale or the harm or loss against the public benefits of the proposal.

Proposal is for engineering works to infill and level the disused and drained lower reservoir.

Previous applications included the retention of both reservoirs and their associated features, albeit with some alterations. Further to this it was proposed that interpretation would be provided on site.

It is accepted that the circumstances have changed and much of the interest has been lost through the draining of the water bodies and the subsequent work on the site. Further to this the site has been assessed and recorded.

In light of the current condition of the sites it is considered that the proposed works are acceptable. It is suggested that where possible opportunities should be considered for interpretation on the site in order to provide information that would offer visitors an understanding of the area.

**HBC Traffic & Transport** – There are no highway or traffic concerns with this proposal.

The Hart access must be kept clear of mud and measures put in place to prevent mud being transferred onto the highway.

There have already been several occasions when Hart Lane has been left in a dangerous condition and the council have had to step in and clear the road.

*Additional comments received 15/02/2024*

There are no objections in principle to this planning application.

There are concerns however that on numerous occasions Hart Lane has been left in a dangerous condition after site traffic as spread mud onto the carriageway surface. The land owner as employed a road sweeper however this at times is too little. A construction management plan should be submitted which details how mud will be removed from vehicles before entering Hart Lane.

**HBC Countryside Access Officer** – There is no information to imply that there is any data relating to any recorded or unrecorded public rights of way and/or permissive paths running through, abutting to or being affected by the proposed development of this site.

*Additional comments received 12/02/2024*

Please refer to my comments of 15th August 2023.

**HBC Public Protection** – I have no objections to this application subject to the following conditions:

Adequate dust suppression measures must be available on site during any works.

No open burning at all on site.

The working hours for all construction/Infilling activities on this site are limited to between 08:00 and 18:00 Mondays to Fridays and 09:00 to 13:00 Saturdays and not

at all on a Sunday or Public Holidays. Any deliveries and collections during the infilling works shall be kept between these hours as well.

**Tees Archaeology** – Thank you for the consultation on this application. The reservoirs have previously been the subject of archaeological recording and photographic survey. I note the Heritage Assessment and am satisfied that no further archaeological work is necessary in relation to the infilling of the site.

Additional comments received 15/02/2024

Thank you for the additional consultation on this application. We have nothing to add to our comments of August 2023.

**Environment Agency** – We object to the planning application as submitted because the risks to groundwater from the development are unacceptable. The applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed. We recommend that planning permission should be refused on this basis in line with paragraph 174 of the National Planning Policy Framework.

Reasons: Our approach to groundwater protection is set out in ‘The Environment Agency’s approach to groundwater protection’ (The Environment Agency’s approach to groundwater protection ([publishing.service.gov.uk](https://publishing.service.gov.uk))). In implementing the position statements in this guidance we will oppose development proposals that may pollute groundwater, especially where the risks of pollution are high and the groundwater asset is of high value. In this case position statements E1 and/or F1 applies.

Groundwater is particularly sensitive in this location because the proposed development site is located upon the Magnesian Limestone principal aquifer.

To ensure development is sustainable, applicants must provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed. In this instance, the applicant has failed to provide this information and we consider that the proposed development may pose an unacceptable risk of causing a detrimental impact to groundwater quality because of the nature of the activity (waste disposal), large volume of waste material proposed to be used for the infill activities, unknowns around existing infrastructure and high sensitivity of controlled waters in the area.

Overcoming our objection – We note that geological cross sections and an exploratory hole location plan has been submitted in support of the application, but there appears to be no hydrogeological / environmental risk assessment submitted which assesses the risks posed by this activity to controlled waters, including the underlying groundwater.

In accordance with our approach to groundwater protection, we will maintain our objection until we receive a satisfactory risk assessment that demonstrates that the risks to groundwater posed by this development can be satisfactorily managed.

The applicant is proposing to retain all existing infrastructure from the previous use of the site however there appears to be no information provided outlining what existing infrastructure is present, its current condition and/or what it connects to. We require this information to adequately assess whether there is risk of infilling the old reservoir void 'as is' e.g. is there a risk that the infrastructure could act as a pathway for contaminants to enter the underlying groundwater or adjacent watercourses. Although the proposal is to infill with inert waste there is still a risk to controlled waters from substances that may be present such as metals and/or nitrate.

For information, the Environment Agency has a long-term groundwater monitoring borehole located at Hart Reservoir. We have been monitoring the quality and level of groundwater at the borehole since the 1970s and it continues to be an important data source for us. As such, we request that the borehole is not detrimentally impacted by any future development of the site. We accept that alteration of the headworks (to below ground) may be required to allow access for site users and to ensure long-term protection of the hole.

Separate to the above objection, we would also like to provide the below advice:

Environment Permit – Advice to Applicant/LPA – The proposed development will require a deposit for recovery environmental permit from the Environment Agency. No environmental permit is currently in force on the site to permit this activity. No permit application has yet been submitted to the Environment Agency.

The Environmental Permitting (England and Wales) Regulations 2016 state that permitted sites should not harm human health or pollute the environment. The operator is therefore required to have measures in place which will:

- prevent pollution
- ensure that there is no harm to human health, the quality of the environment, or the surrounding amenity
- ensure that there is no offence to a human sense or damage to material property.

We would likely reject any permit application which did not include this information.

You should not assume that in the event of planning permission being granted that a permit would be forthcoming and we would strongly advise you contact the Environment Agency.

Permitting pre-application – Advice to Applicant – Should the applicant require any pre application discussions with the Environment Agency prior to submitting their permit application, then they should be aware of the following. On the 1st April 2018 the pre application process changed. Any pre-application queries are now coordinated by the Permitting and Support Centre (P&SC) for both simple and complex applications. The basic level of pre application advice is free. If you require more in-depth advice, an enhanced pre application service is available. The enhanced service costs £100 an hour plus VAT.

Should the applicant require pre-application advice, please follow the below link and complete and submit the pre-app form.

<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>

The webpage also includes further explanation about basic and enhanced pre app and any associated costs. If you cannot access the form, please contact the Environment Agency and they will send you a paper copy: Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk) Telephone 03708 506 506 (call charges)

Amenity issues - Advice to applicant – Residential dwellings are located in close proximity to the proposed development site and could be impacted by amenity issues including that from noise and dust caused by the operation.

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes.

The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here: Waste duty of care code of practice - GOV.UK ([www.gov.uk](http://www.gov.uk)) If you need to register as a carrier of waste, please follow the instructions here: <https://www.gov.uk/register-as-a-waste-carrier-broker-or-dealer-wales>

If you require any local advice or guidance please contact your local Environment Agency office: Teesdale House, Lingfield Way, Darlington, DL1 4GQ. Telephone: 0370 850 6506.

Historic Landfill – Advice to applicant – The proposed development is located on or within 250 metres of historic landfill site Hart Reservoir that is potentially producing landfill gas.

Landfill gas consists of methane and carbon dioxide. It is produced as the waste in the landfill site degrades. Methane can present a risk of fire and explosion. Carbon dioxide can present a risk of asphyxiation or suffocation. The trace constituents of landfill gas can be toxic and can give rise to long- and short-term health risks.

The risks associated with landfill gas will depend on the controls in place to prevent uncontrolled release of landfill gas from the landfill site. Older landfill sites may have poorer controls in place and the level of risk may be higher or uncertain due to a lack of historical records of waste inputs or control measures.

The following publications provide further advice on the risks from landfill gas and ways of managing these:

- Waste Management Paper No 27
- Environment Agency LFTGN03 'Guidance on the Management of Landfill Gas'

Updated comments received 14/11/2023

We have reviewed the additional information contained within the Design Statement, dated 19 October 2023. This contains sufficient information for us to remove our objection to the above application for the proposed infilling of Hart Reservoir.

We would also like to provide the below advice to the applicant:

**Environmental Permitting – Advice to Applicant**

The CL:AIRE Definition of Waste: Development Industry Code of Practice (DoWCOP) (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/ or land development works is waste or has ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

It is proposed here to utilise DoWCOP to allow backfilling of Hart Reservoir from a nearby greenfield agricultural source. This source of material appears low risk and could potentially fulfill the criteria to allow use under DoWCOP. This specific source, together with the provided additional cross sections including water strikes and depth to the Magnesian Limestone, gives us confidence that the infilling can proceed.

Please note that if a different source of infilling material is proposed, DoWCOP may not be appropriate and a Deposit for Recovery Environmental Permit will be required.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. We recommends that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice
- The waste management page on gov.uk

Amenity issues - Advice to applicant – Residential dwellings are located in close proximity to the proposed development site and could be impacted by amenity issues including that from noise and dust caused by the operation. The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes.

The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of

practice can be found here: Waste duty of care code of practice - GOV.UK ([www.gov.uk](http://www.gov.uk)) If you need to register as a carrier of waste, please follow the instructions here: <https://www.gov.uk/register-as-a-waste-carrier-broker-or-dealer-wales>

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The following publications provide further advice on the risks from landfill gas and ways of managing these:

- Waste Management Paper No 27
- Environment Agency LFTGN03 'Guidance on the Management of Landfill Gas'

**Hartlepool Rural Plan Group** – Thank you for consulting the Rural Neighbourhood Plan Group with regard to this application. Rural Neighbourhood Plan Policy NE1 is particularly relevant.

**POLICY NE1 - NATURAL ENVIRONMENT** The rural plan will seek to protect, manage and enhance the areas natural environment.

2. Enhancement of wildlife corridors, watercourses (including improving water quality) other habitats and potential sites identified by the local biodiversity partnership or similar body must be created in order to develop an integrated network of natural habitats which may include wildlife compensatory habitats and/or wetland creation.

3. Where possible, new development should conserve, create and enhance habitats to meet the objectives of the Tees Valley Biodiversity Action Plan.

It does appear the opportunity to provide a distinct new habitat based on the former reservoir use is being lost in favour of infilling the old lower reservoir. Running through the application site there is, identified in Local Plan policy NE3, part of a green wedge. Local Plan policy NE3 Green Wedges states the Borough Council will seek to protect, maintain, enhance and, where appropriate, increase the number of green wedges to provide a wide range of benefits for the town. Where an integral part of development, green wedges should be implemented at an early stage in the

development process. Where appropriate, interpretation should be provided for natural and historic features within green wedges.

There is a watercourse running through the application site which runs from Hart continuing through Bishop Cuthbert Estate. We would expect enhancement of this watercourse with benefits for wildlife and local residents.

**Cleveland Police** – Given the size of the task, and the considerable volume of material required to level the land, security should be considered at the outset. There are many crimes that occur when there is likely to be heavy plant and cabins situated on site; the most significant include theft of plant equipment, materials and tools.

Additional comments received 27/02/2024

No further comments in relation to this updated proposal from us.

**Natural England – SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION with informative**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. We provide further contextual information below as an informative in relation to the land's location within the Tees nutrient neutrality catchment. Natural England's further advice on designated sites and advice on other natural environment issues is set out below.

European sites – Teesmouth and Cleveland Coast Special Protection Area

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site and has no objection to the proposed development.

Informative - We note the submitted Design & Access Statement's reference to an extant outline planning permission (H/2015/0354) and draw the Council's attention to Natural England's overarching advice regarding nutrient neutrality dated 16th March 2022 and sent to all relevant Local Planning Authorities. Consistent with the Habitats Regulations consideration should be given to additional nutrients (specifically total nitrogen) as and when any further application/s are submitted in relation to this housing proposal (such as reserved matters).

Teesmouth & Cleveland Coast Site of Special Scientific Interest

Our comments in relation to the SPA and Ramsar Site of the same name (above) apply similarly to this SSSI. Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Other advice

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Should the proposal change, please consult us again.

Appendix A – Additional advice (summarised/headers only)

Natural England offers the following additional advice;

- Landscape
- Best and most versatile agricultural land and soils
- Protected Species
- Local sites and priority habitats and species
- Ancient woodland, ancient and veteran trees
- Biodiversity and wider environmental gain
- Access and Recreation
- Rights of Way, Access land, Coastal access and National Trails
- Biodiversity duty

Additional comments received 26/02/2024

Natural England has previously commented on this proposal and made comments to the authority in our response dated 25 January 2024, reference number 461554 (attached).

The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

## **PLANNING POLICY**

1.15 In relation to the specific policies referred to in the section below please see the Policy Note at the end of the agenda.

### Local Policy

#### **HARTLEPOOL LOCAL PLAN (2018)**

1.16 The following policies in the adopted Hartlepool Local Plan 2018 are relevant to the determination of this application:

LS1: Locational Strategy  
 CC1: Minimising and Adapting to Climate Change  
 NE1: Natural Environment  
 NE2: Green Infrastructure  
 NE3: Green Wedge

QP3: Location, Accessibility, Highway Safety and Parking  
 QP4: Layout and Design of Development  
 QP5: Safety and Security  
 QP6: Technical Matters  
 SUS1: The Presumption in Favour of Sustainable Development

#### HARTLEPOOL RURAL NEIGHBOURHOOD PLAN (2018)

1.17 The following policies in the adopted Hartlepool Rural Neighbourhood Plan 2018 are relevant to the determination of this application:

GEN1: Development Limits  
 NE1: Natural Environment

#### ADOPTED TEES VALLEY MINERALS AND WASTE DPD (2011)

1.18 The Tees Valley Minerals DPDs (TVMW) form part of the Development Plan and includes policies that need to be considered for all major applications, not just those relating to minerals and/or waste developments.

1.19 The following policies in the TVMW are relevant to this application:

Policy	Subject
MWP1	Waste Audits

1.20 A site waste audit has not been submitted with the application. Planning Policy request that one be submitted prior to determination or that the application be conditioned so that an audit is received prior to commencement of development.

#### National Planning Policy Framework (NPPF)(2023)

1.21 In December 2023 the Government issued a revised National Planning Policy Framework (NPPF) replacing the 2012, 2018, 2019, 2021 and September 2023 NPPF versions. The NPPF sets out the Government's Planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The overriding message from the Framework is that planning authorities should plan positively for new development. It defines the role of planning in achieving sustainable development under three overarching objectives; an economic objective, a social objective and an environmental objective, each mutually dependent. At the heart of the Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless policies within the Framework provide a clear reason for refusal or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The following paragraphs are relevant to this application:

PARA001: Role of NPPF

PARA002: Determination of applications in accordance with development plan

PARA003: Utilisation of NPPF  
 PARA007: Achieving sustainable development  
 PARA008: Achieving sustainable development  
 PARA009: Achieving sustainable development  
 PARA010: Achieving sustainable development  
 PARA011: The presumption in favour of sustainable development  
 PARA012: The presumption in favour of sustainable development  
 PARA038: Decision making  
 PARA047: Determining applications  
 PARA055: Planning conditions and obligations  
 PARA056: Planning conditions and obligations  
 PARA124: Achieving appropriate densities  
 PARA126: Achieving well-designed places  
 PARA130: Achieving well-designed places  
 PARA134: Achieving well-designed places  
 PARA 180: Conserving and enhancing the natural environment  
 PARA 185: Habitats and biodiversity  
 PARA 186: Habitats and biodiversity  
 PARA 189: Ground conditions and pollution  
 PARA 195: Conserving and enhancing the historic environment  
 PARA 200: Proposals affecting heritage assets  
 PARA 201: Proposals affecting heritage assets  
 PARA218: Implementation

**1.22 HBC Planning Policy Comments** – Planning Policy have no concerns with regards to the infilling proposal. Planning Policy note that the proposed works are within an area that is delineated on the proposal map allocated and allocated under policy NE3 (green wedge) and to the east is an area also allocated via policy NE2. For the avoidance of doubt the overriding policy in this location in Policy NE3 as the area as a whole is the Upper Warren Green Wedge.

**1.23** Planning Policy are of the view that providing an appropriate landscaping strategy can be added to the application and an enhancement in Biodiversity can be achieved then the proposal complies with the policy. Planning Policy note that BNG is proposed in a location outside of the red line boundary and Planning Policy accept that, in this instance, the provision of BNG off site is acceptable.

## **PLANNING CONSIDERATIONS**

**1.24** The main issues for consideration in this instance are the appropriateness of the proposal in terms of the policies and proposals held within the Development Plan and in particular the principle of development, ecology, contamination, surface water management, highway safety, conservation, and character and appearance. These and any other planning and non-planning matters are considered as set out below.

## **PRINCIPLE OF DEVELOPMENT**

**1.25** The application site is largely within the development limits as defined by Policy LS1: Locational Strategy of the Hartlepool Local Plan (HLP), albeit a small area covered by the red line is beyond development limits of the HLP, however no

development is proposed in that location (as clarified on the submitted plans where the area of infill is clearly denoted and this can be secured by a planning condition) and therefore development of the site proposed can be considered acceptable in principle, subject to an assessment of other relevant material planning considerations as set out below. The site is entirely within the development limits set out in the Hartlepool Rural Neighbourhood Plan (HRNP).

1.26 The site is also allocated under HLP Policy NE3 (Green Wedge), while this policy seeks to protect green infrastructure, the proposal would not result in the loss of a publicly accessible site for recreation (given it is in private ownership) and it is understood that it would address current safety and maintenance issues as set out in the submitted application. The area is a small section of a much larger allocation for green infrastructure that includes a large area of land to the east and the larger upper reservoir to the west. HBC Planning Policy have confirmed that subject to appropriate landscaping and biodiversity enhancement, the proposals comply with the relevant policies and therefore raise no objection. The application includes provision for biodiversity net gain (BNG) and although this would be offsite, it is proposed to be on the adjoining land consisting of the upper reservoir. The BNG is to be secured by both a planning condition and an appropriate legal agreement. Landscaping of the site (anticipated to be top soiled and grass seeded once the infill works have been completed) can be secured via a planning condition.

1.27 The infilling of the site is therefore considered to be acceptable in principle, subject to relevant planning conditions and a legal agreement to secure landscaping and enhancements to biodiversity, and the scheme satisfying other material planning considerations as set out below.

## ECOLOGY

1.28 Following the HBC Ecologist's original comments, the application is now supported by a number of ecology surveys/appraisals, which have been requested and assessed by HBC Ecology. The documents submitted identify the potential impacts of the works proposed on ecology and set out recommended mitigation measures to address those impacts. The findings of the reports are found to be acceptable by HBC Ecology and their recommendations are supported. In line with those recommendations, appropriate conditions are recommended, requiring a Construction Environmental Management Plan to be submitted prior to works commencing to ensure appropriate mitigation measures in relation to protected species are agreed, and to achieve the requisite biodiversity net gain (consisting of 0.32 Habitat Units, 0.03 Hedgerow Units and 0.01 Watercourse Units of habitat retention, creation and enhancement). BNG proposals are to be off-site and therefore a section 106 legal agreement is also required to ensure this is appropriately secured, which the applicant has confirmed they are willing to enter into.

1.29 Some of the recommended measures in the submitted ecology reports relate to future development of the site for residential development and therefore such measures would need to be secured in the event an application for housing were to be approved, such as the potential for recreational disturbance at the coast (that

would need to be considered and addressed through a Habitat Regulations Assessment). The Council's Ecologist is satisfied with/accepts this approach.

1.30 No objections have been received from Natural England in respect to statutory sites but have provided advice on a number of matters which can be relayed to the applicant by way of informatives on the decision notice.

1.31 Subject to the recommended conditions and legal agreement, the application is considered to be acceptable in relation to ecology.

## CONTAMINATION

1.32 As initially submitted, the application lacked some clarity over the intention in relation to features and infrastructure associated with the former reservoirs and what would be left in situ or removed and what material was proposed for the infilling. A plan detailing this has since been submitted (which confirms inlet pipes, outlet pipes, headwall, channel walkway and fencing structures are to be removed, and spillway, outlet and tower structures are to be retained) as well as a Design Statement which follows the guidance provided in the CL:AIRE publication 'The Definition of Waste: Development Industry Code of Practice' in order to support the sustainable re-use of excavated material (including how imported material will be tested and verified).

1.33 HBC Engineering Consultancy have since confirmed that the submitted Design Statement is satisfactory in relation to contaminated land subject to a planning condition requiring the infilling to be carried out in accordance with section 6 (soil verification and reporting) of the submitted Design Statement, which is considered to be satisfactory and they raise no further comments or objections in light of the submitted structure retention plan.

1.34 Concerns were also initially raised by the Environment Agency in relation to potential risks to groundwater. Following consultation on the subsequently submitted Design Statement regarding the proposed infill, the Environment Agency has removed their objection to the application and have provided further advice in respect to Environmental Permitting.

1.35 Given the above and subject to the identified planning conditions, the proposed works are considered to be acceptable in relation to contamination.

## SURFACE WATER MANAGEMENT

1.36 The Council's Engineering Consultancy raised concerns regarding the application as initially submitted as unrestricted surface water run off from the area of the infilled reservoir was proposed, which was not deemed to be acceptable in terms of off-site flood risk.

1.37 Following the submission of updated details, it has subsequently been confirmed by the Council's Engineering Consultancy that there are now no objections to the proposals in terms of surface water management in principle, subject to a planning condition requiring a detailed design and management plan for surface water drainage being submitted prior to works commencing on site.

Additional advice regarding the requirements of the planning condition can be appended as an informative for the applicant's attention. The applicant has confirmed their agreement to such a planning condition being imposed and therefore subject to that condition, the proposals are considered to be acceptable in relation to surface water management.

## HERITAGE

1.38 In assessing the application site during the course of the previous outline application for residential development, it was noted that the reservoirs and their features may have merited inclusion upon the Council's Local List of historically important buildings/structures and therefore warranted protection as a heritage asset in line with the requirements of the NPPF. Since that time, the site has been decommissioned and drained and therefore no longer functions as a reservoir.

1.39 At that time, it was considered that infilling of the reservoirs and removal of the infrastructure associated with its function would result in the entire loss of a heritage asset and its wider context, as a result the site would be difficult to interpret in terms of its historic use and association with the development of industry within Hartlepool.

1.40 The most recent previous application (H/2020/0071) at the site was also for infilling, but it lacked information that would have allowed an assessment of the significance of the heritage asset or how existing features would be treated and therefore an assessment of any potential harm could not be made. The National Planning Policy Framework requires that in determining planning applications, Local Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Accordingly, the lack of such information was one of the reasons the previous application was refused.

1.41 The current application under consideration includes a Heritage Assessment and an Archaeological Assessment and Building Recording. The Heritage Assessment considers that the site in its current form, the reservoirs now being drained basins, with landscaping and earth movements having changed the shape and size of the former reservoirs, the site has deteriorated and would not be appreciated and understood as a former reservoir servicing the requirements of Hartlepool's past industry, and therefore the site has lost much of its heritage value. In light of this, the reports conclude that it is unlikely the site would be suitable to be included on the Council's Local List.

1.42 The Council's Heritage and Open Spaces Manager has reviewed this information and accepts that the circumstances have changed and that much of the historic interest in the site has been lost following draining of the water bodies and subsequent works. However, the site has now been assessed, recorded and details submitted for consideration. In light of this, the Council's Heritage and Open Spaces Manager has commented that where possible, opportunities should be considered for interpretation on the site in order to provide information that would offer visitors an understanding of the area.

1.43 It is considered that such interpretation would be better incorporated into the design of and secured as part of any future redevelopment of the site, the design of which could include those features it is proposed to retain (it is of note that a current application by the same applicant is under consideration for residential development), as currently the site is not publicly accessible and it is considered it would be inappropriate to encourage trespass in order to view interpretation panels.

1.44 In summary, no objections have been raised by the Heritage and Open Spaces Manager on heritage grounds, who concludes that the proposed works are acceptable. Tees Archaeology also note that the site has been previously assessed and recorded and are satisfied that no further archaeological work is necessary in relation to infilling of the site.

1.45 As such and in view of the above, the proposals are, on balance, considered to be acceptable in relation to heritage assets.

#### CHARACTER & APPEARANCE OF AREA

1.46 As noted above, the character and appearance of the site has diminished over time, particularly following the draining of the reservoirs and the site's previous function is less readily apparent. Infilling the lower reservoir would alter the site levels and result in some infrastructure being removed, or covered over, although other features of interest would be retained. Notwithstanding that some features would remain, it is considered the ability to interpret the site as a former reservoir would be further diminished by the proposals, however it is considered it would not have an appreciable impact on the character and appearance of the site in wider views. The lower reservoir is not visible from Hart Lane and only glimpses are possible from the public footpath to the south of the site.

1.47 It is considered that the works would not create an overbearing appearance for neighbouring occupiers given the proposed works would not raise levels above the main ground levels surrounding the now empty basin. In view of the above including the heritage position, it is considered that in principle, the proposed works are acceptable in relation to the character and appearance of the site and wider area. Final details of how the site will be finished (i.e. soft landscaping details, anticipated to be top soil and grass seeded) can be secured by a planning condition.

1.48 Overall, it is considered that the proposals would not adversely affect the character and appearance of the site or wider area as to warrant a refusal of the application.

#### HIGHWAY SAFETY

1.49 The proposals do not include any alterations to the existing site access arrangements and are considered unlikely to increase vehicle numbers entering or existing the site in the longer term, albeit access would be required during construction works. HBC Traffic and Transport have advised there are no highway or traffic concerns with the proposals, however note that there is a need to prevent mud being transferred onto the highway during construction. The applicant has confirmed their agreement to a planning condition requiring a construction management plan to

include measures to address mud on the road, to be submitted before works commence.

1.50 As such, the proposed development is considered acceptable in this regard subject to the imposition of the aforementioned planning condition.

#### NEIGHBOUR AMENITY

1.51 The works would not result in above ground features that would be any higher than existing features to be retained or the ground level to the perimeter of the basin in relation to the proposed infilling and therefore it is considered that proposals would not adversely impact upon any neighbouring occupier in relation to loss of light, loss of outlook or have an overbearing appearance. Furthermore, the development would not alter existing and relatively substantial separation distances between the proposed infill area and existing neighbouring residential properties or alter existing boundary treatments, which would further reduce any adverse impacts on the amenity of surrounding neighbours (including Hart Reservoirs House to the north). Given the nature of the works, it is also considered there would be no loss of privacy implications for neighbouring occupiers.

1.52 The Council's Public Protection team have raised no objection to the proposals subject to adequate dust suppression measures being implemented on site during works (which can be secured via the aforementioned construction management plan condition and as agreed with the applicant) and subject to a standard working hours condition. Reference is made in their comments to the need for no open burning on site, however this is not something that could be controlled under planning legislation and would be considered through separate environmental legislation. An informative on the decision notice can highlight this to the applicant.

1.53 Subject to the identified planning conditions, it is considered the proposed development would not unduly impact upon the amenity and privacy of neighbouring occupiers and is therefore acceptable in this respect.

#### OTHER PLANNING MATTERS

1.54 The Council's Countryside Access Officer has confirmed there would be no impact to any public rights of way or permissive paths on or adjacent to the site, as such the proposals are considered to be acceptable in this respect.

1.55 A Waste Audit has been submitted in line with Tees Valley Minerals and Waste development plan document as well as a Design Statement detailing proposed movements to and from the site. There are no objections from HBC Planning Policy in this respect, however a planning condition to secure compliance with these agreed documents is appropriate.

#### RESIDUAL MATTERS

1.56 The Council's Engineering Consultancy and the Environment Agency have drawn the applicant's attention to matters relating to ownership and maintenance responsibilities as well as other approvals and permits that would be required in

addition to any planning permission to carry out the proposed development. These matters can be highlighted to the applicant via appropriate informative(s) on the decision notice.

## CONCLUSION

1.57 The proposed development is considered acceptable in relation to potential impacts on ecology, surface water management, contamination and highways, the proposals are not considered to negatively impact a heritage asset, the character and appearance of the surrounding area, or the amenity of neighbouring occupiers. These and all relevant material planning considerations have been found to be acceptable and therefore officer recommendation is to approve the application subject to the identified conditions.

## EQUALITY AND DIVERSITY CONSIDERATIONS

1.58 There is no evidence of equality or diversity implications.

## SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

1.59 The Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making.

1.60 There are no Section 17 implications.

## REASON FOR DECISION

1.61 It is considered by Officers that the proposal in the context of relevant planning policies and material planning considerations is acceptable as set out in the Officer's Report.

**RECOMMENDATION – APPROVE** subject to the completion of a section 106 legal agreement to secure the delivery of Biodiversity Net Gain requirements and subject to the following planning conditions:

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the following plans: drawing number HAR-HRE-CON-001 (Site Red Line Plan), received by the Local Planning Authority 30/01/2023; drawing number HRT-CDL-XX-XX-DR-GE-60802 Rev P02 (Geological Cross Sections A-A', B-B' and C-C') and drawing number HRT-CDL-XX-XX-DR-GE-60803 Rev P02 (Anticipated Earthworks Construction Sequence), received by the Local Planning Authority 11/05/2023; and drawing number HAR-HRE-STRUCT-001 Revision A (Structure Removal/Retention Plan), drawing number HAR-HRE-STRUCT-002 (Topographical Survey with Infill Overlay) and drawing name Approximate Post Fill Reservoir Levels & Temporary Basin, all received by the Local Planning Authority 02/02/2024.

For the avoidance of doubt.

3. Prior to the commencement of development, a Construction Management Plan (CMP) shall be first submitted to and agreed in writing with the Local Planning Authority. The scheme shall agree the routing of all HGVs movements associated with the construction phases, effectively control dust emissions from the site remediation and construction works, this shall address earth moving activities, control and treatment of stock piles, parking for use during construction and measures to protect any existing footpaths and verges, vehicle movements, wheel cleansing measures to reduce mud on highways, road sheeting of vehicles, offsite dust/odour monitoring and communication with local residents. Thereafter and following the written approval of the Local Planning Authority, the development shall be carried out solely in accordance with the approved CMP for during the construction phase of the development hereby approved.  
In the interests of the amenities of the area and highway safety.
4. Notwithstanding the submitted information, no development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design shall demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in the Tees Valley SuDS Design Guide and Local Standards (or any subsequent update or replacement for that document). The approved scheme shall be implemented (and thereafter maintained) in accordance with the approved detailed design prior to the completion of the development.  
To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.
5. No development shall commence unless and until a Biodiversity Net Gain Plan scheme ("the scheme") to ensure that the approved development provides the delivery of the Biodiversity Net Gain (BNG) as stated in the BNG Metric (contained within The Biodiversity Net Gain Assessment Hart Reservoirs Infill, received by the Local Planning Authority on 20/10/2023) a minimum of 0.32 Habitat Units, 0.03 Hedgerow Units and 0.01 Watercourse Units habitat retention, creation and enhancement (as detailed in 'Headline Results' section of 'The Biodiversity Metric 4.0 - Calculation Tool', received by the Local Planning Authority on 20/10/2023) and the subsequent management of habitats in the condition stated in the BNG Metric has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development, including the compensation, shall be measured in accordance with the biodiversity metric 4.0 (The Biodiversity

Metric 4.0 - Calculation Tool, received by the Local Planning Authority on 20/10/2023). The scheme shall include:

- details of habitat retention, creation and enhancement sufficient to provide the delivery of the net gain proposed in the metric;
- the provision of arrangements to secure the delivery of the net gain proposed in the metric (including a timetable for their delivery);
- a management and monitoring plan (to include for the provision and maintenance of the net gain proposed in the metric for a period of at least 30 years or the lifetime of the development (whichever is the longer). Thereafter, the scheme shall be implemented in full accordance with the requirements of the agreed scheme and timetable for delivery.

To provide biodiversity management and biodiversity net gain in accordance with The Environment Act 2021, and paragraphs 8, 180 and 186 of the NPPF (2023) and Policy NE1 of the Hartlepool Local Plan (2018).

6. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) and timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include method statements for the avoidance, mitigation and compensation measures as detailed in;
  - section 6 (Recommendations), page 35 of the submitted Ecological Appraisal by OS Ecology, document dated October 2023 and received by the Local Planning Authority 26/10/2023;
  - section 6 (Recommendations), page 24 of the Breeding Bird Survey by OS Ecology, document dated September 2023 and received by the Local Planning Authority 20/10/2023);
  - section 6 (Recommendations), page 18 of the Watercourse Survey by OS Ecology, document dated October 2023 and received by the Local Planning Authority 20/10/2023 and;
  - section 6 (Recommendations), page 16 of the Great Crested Newt eDNA Survey by OS Ecology, document dated July 2023 and received by the Local Planning Authority 20/10/2023.
 The CEMP (Biodiversity) shall also include the following:
  - a) Risk assessment of potentially damaging construction activities;
  - b) Identification of "biodiversity protection zones";
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
  - h) Use of protective fences, exclusion barriers and warning signs.
 The approved CEMP shall be adhered to and implemented in accordance with the agreed details and timetable and throughout the construction period strictly in accordance with the approved details.

To ensure suitable provision of ecological mitigation measures.

7. Notwithstanding the submitted details and prior to commencement of development, a detailed scheme for the provision, long term maintenance and management of all soft landscaping (primarily in respect to the landscaping and surface finish to the infilled area) within the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall specify sizes, types and species, indicate the proposed layout and surfacing of all areas, include a timetable and programme of the works to be undertaken, and be implemented in accordance with the approved details and timetable/programme of works. Thereafter the development hereby approved shall be carried out and maintained in accordance with the agreed scheme, for the lifetime of the development hereby approved. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the development hereby approved being completed. Any landscaping/planting 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 and to ensure a satisfactory form of development.
8. Soil imported to the site as part of the development hereby approved shall be carried out solely in accordance with document 'Hart Reservoir Design Statement' (document reference HRT-CDL-XX-XX-T-60201 Rev P1 by Cundall, (document dated 19/10/2023), received by the Local Planning Authority 20/10/2023 including section 6.0 (Verification of Scheme) of the aforementioned document. Upon completion of the infill works hereby approved, a final Verification Report (as detailed in section 6.3 'Reporting' of the aforementioned document) shall be submitted to the Local Planning Authority.  
To prevent the importing of contaminated soil.
9. The development hereby approved shall be carried out in accordance with the Waste Audit (by Persimmon Homes) dated January 2024 and received by the Local Planning authority 02/02/2024.  
To ensure a satisfactory form of development, and to ensure compliance with the requirement for site specific detailed waste audit in accordance with Policy MWP1 of the Tees Valley Joint Minerals and Waste Development Plan Document 2011.
10. The extent of the infill works hereby approved shall be limited to the area defined by the magenta coloured line on plan 'Approximate Post Fill Reservoir Levels & Temporary Basin', received by the Local Planning Authority 02/02/2024.  
To define the permission and for the avoidance of doubt.
11. The development hereby approved (infill works) shall be completed strictly in accordance with the agreed levels details as shown on drawing number HRT-

CDL-XX-XX-DR-GE-60802 Rev P02 (Geological Cross Sections A-A', B-B' and C-C'), drawing number HRT-CDL-XX-XX-DR-GE-60803 (Anticipated Earthworks Construction Sequence) received by the Local Planning Authority 11/05/2023; drawing number HAR-HRE-STRUCT-002 (Topographical Survey with Infill Overlay), HAR-HRE-STRUCT-001 Revision A (Structure Removal/Retention Plan), drawing name Approximate Post Fill Reservoir Levels & Temporary Basin, received by the Local Planning Authority 02/02/2024.

To ensure a satisfactory form of development and in the interests of the amenities of the surrounding area.

12. The working hours for all construction/Infilling activities on this site are limited to between 08:00 and 18:00 Mondays to Fridays and 09:00 to 13:00 Saturdays and not at all on a Sunday or Public Holidays. Any deliveries and collections during the infilling works shall be kept between these hours as well.

In the interests of the amenities of the area.

## BACKGROUND PAPERS

- 1.62 Background papers can be viewed by the 'attachments' on the following public access page:

[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2023/0028](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2023/0028)

- 1.63 Copies of the applications are available on-line:

<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

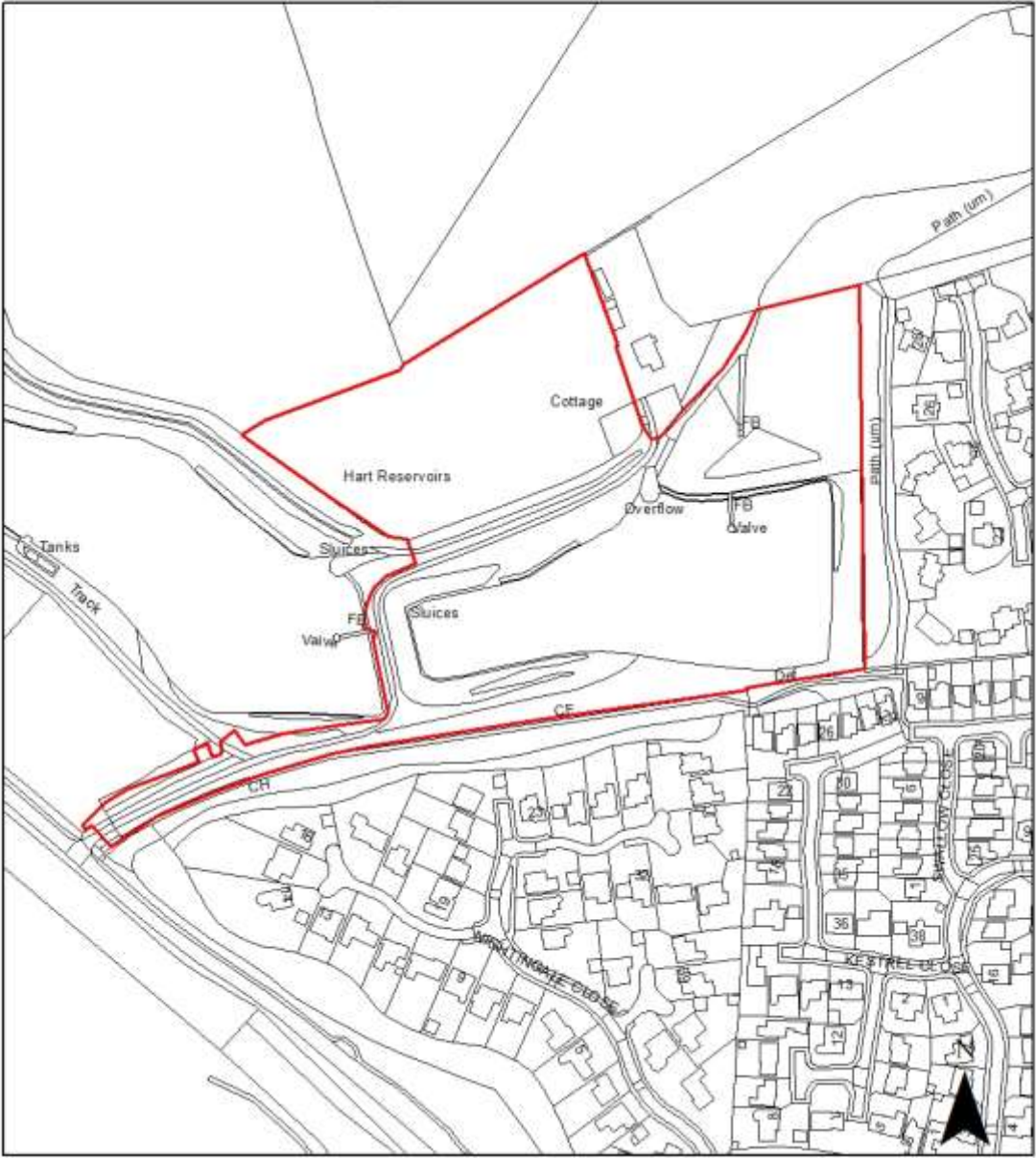
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Hart Reservoirs, Hartlepool



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> BOROUGH COUNCIL	DRAWN <b>JB</b>	DATE <b>22.01.2023</b>
	SCALE <b>1:2,500</b>	
Dept of - Development, Neighbourhoods and Regulatory Services Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRG.NO <b>H/2023/0028</b>	REV

**No:** 2.  
**Number:** H/2023/0416  
**Applicant:** MR IAN BOND YORK PLACE HARTLEPOOL TS24 0QR  
**Agent:** ELDER LESTER ARCHTECTS REEDS MILL ATLAS WYND YARM TS15 9AD  
**Date valid:** 05/12/2023  
**Development:** Proposed replacement of existing timber sliding sash windows and bay windows to front elevation with uPVC sliding sash windows  
**Location:** 2 YORK PLACE HARTLEPOOL

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## PURPOSE OF REPORT

2.1 An application has been submitted for the development highlighted within this report accordingly Hartlepool Borough Council as Local Planning Authority is required to make a decision on this application. This report outlines the material considerations in relation to the proposal and presents a recommendation.

## BACKGROUND

2.2 The following planning applications are considered relevant to the current application:

H/2020/0474 - Demolition of existing two storey extension and erection of single storey extension to the rear, replacement of render, and replacement of timber sliding sash windows with uPVC sliding sash windows to the front and rear, refused 12/03/2021, for the following reason:

*1. In the opinion of the Local Planning Authority, it is considered that the replacement windows to front cause less than substantial harm to the designated heritage asset (Headland Conservation Area) by virtue of the design, detailing and use of materials. It is considered that the works would detract from the character and appearance of the designated heritage asset. It is further considered that there is insufficient information to indicate that this harm would be outweighed by any public benefits of the development. The proposal is therefore contrary to policies HE1 and HE3 of the Hartlepool Local Plan (2018) and paragraphs 124, 130, 189, 190, 192, 193 and 196 of the National Planning Policy Framework 2019.*

H/2021/0141 - Demolition of existing two storey rear extension, erection of full width single storey extension, replacement of front and rear cream coloured lime based render for white lime based render, replacement of front and rear single glazed timber framed sliding sash windows for double glazed timber sliding sash windows detailed to match existing, approved 23/06/21.

## PROPOSAL

2.3 Planning permission is sought to replace existing timber sliding sash windows to the front of the property (consisting of 1 multi-pane basement window, ground and first floor bay windows and 2 second floor windows) with white uPVC sliding sash windows ‘with wood grain effect’.

2.4 The application has been referred to planning committee at the request of a local ward councillor in line with the Council’s scheme of delegation.

## SITE CONTEXT

2.5 The application site relates to a south facing terraced property on York Place, within a predominately residential area of the Headland Conservation Area (a designated heritage asset), which is subject to an Article 4 Direction that removes a number of permitted development rights. The host property features a painted timber glazed panel door, a timber sliding sash window at cellar level, a timber sliding sash bay window at ground floor level, a timber sliding sash bay window at first floor level, and 2no. double glazed uPVC sash windows at second floor level. The host property adjoins No. 1 to the east, whilst No. 3 adjoins to the west. Beyond the back alley (to the north) is No. 20 Marquis Street. To the front, the host property is served by a small yard and bounded by railings, whilst to the rear, the boundary treatment comprises a brick wall with a height of approximately 2m enclosing all three sides.

## PUBLICITY

2.6 The application has been advertised by way of three neighbour letters, site notice and press advert. To date, there have been 4 responses supporting the application, which can be summarised as follows:

- Proposals are sympathetic.
- Modern materials can be used without a negative impact on heritage
- Would prevent heat loss and provide a warm home.

2.7 Background papers can be viewed via the ‘click to view attachments’ link on the following public access page:

<https://planning.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=160209>

2.8 The period for publicity has expired.

## CONSULTATIONS

2.9 The following consultation replies have been received:

**HBC Head of Service for Heritage & Open Spaces**– The application site is located in the Headland Conservation Area, a designated heritage asset. Policy HE1 of the Local Plan states that the Borough Council will seek to preserve, protect and positively enhance all heritage assets.

When considering any application for planning permission that affects a conservation area, the 1990 Act requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The National Planning Policy Framework (NPPF) goes further in seeking positive enhancement in conservation areas to better reveal the significance of an area (para. 212, NPPF). It also looks for local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness (paras. 196 & 203, NPPF).

Further to this at a local level, Local Plan Policy HE3 states that the Borough Council will, 'seek to ensure that the distinctive character of conservation areas within the Borough will be conserved or enhanced through a constructive conservation approach. Proposals for development within conservation areas will need to demonstrate that they will conserve or positively enhance the character of the conservation areas.'

The Headland Conservation area forms the original settlement of Hartlepool, established during the seventh century as a religious centre and later becoming important as a port. Its unique character derives from its peninsula location and from the Victorian domestic residential architecture.

Two-storey is the most common building height in the Headland but those buildings on the main frontages to the sea front are often three storey. Most houses have made use of the attic space with light and ventilation provided by traditional skylights and a wide variety of roof dormer designs. The majority of dwellings have single or two storey rear offshoots. Rear yards are enclosed with high brick walls. The larger houses have front gardens enclosed by low walls, originally topped with railings.

The conservation area is considered to be at risk. Policy HE7 of the Local Plan sets out that the retention, protection and enhancement of heritage assets classified as 'at risk' is a priority for the Borough Council. Development of heritage assets which will positively conserve and enhance these assets removing them from being classified as at risk and addressing issues of neglect, decay or other threat will be supported.

The proposal is the replacement of sliding sash timber windows with uPVC sliding sash windows to the lower ground floor, ground floor and first floor. Further to this existing UPVc windows to the second floor of the property will be replaced.

The detail and standard joinery evident on the Headland contributes to its unique character. Windows are usually vertical sliding sash containing a single pane of glass, sometimes divided by a single vertical glazing bar. Horns are also evident on sash windows for decoration and strength. Some of the earlier type of multi-paned sash windows are found on lesser windows on rear elevations or to basements. Canted bay windows are also a feature of the Headland, sometimes running up the front elevation from basement to attic, or in other instances forming a single projecting oriel window at first floor. Front doors are two or four panelled set in a doorcase which may be of a simple design or may be more decorative with fluted Doric columns. There are examples of later Edwardian architecture which differ from

the earlier Victorian houses by the use of more elaborate joinery, to doors, doorcases and windows with multi-paned upper lights and fixed sash lower lights.

Historic England's document, 'Traditional Windows; Their Care, Repair and Upgrading' states, UPVC windows, 'are assembled from factory-made components designed for rigidity, thermal performance and ease of production. Their design, detailing and operation make them look different to traditional windows.' It further notes that the, 'different appearance and character' of such windows in comparison to historic windows means they are, 'unsuitable for older buildings, particularly those that are listed or in conservation areas.'

UPVC as a material has a smoother more regular surface finish and colour, and the ageing process differs significantly between UPVC and painted timber. The former retains its regularity of form, colour and reflectivity with little change over time. Newly painted timber is likely to go through a wider range of change and appearance over time. Therefore both UPVC windows will differ significantly in appearance both at the outset and critically as they age from elements constructed in wood.

A timber window has tenoned corner joints and the panes of glass are held by putty. The glazing beads and mitred corner joints found in UPVC windows are unlike the putty beads and tenoned corner joints of a timber window. It is these small but significant details that contribute to the special character of a timber sash window and thus to the appearance of a conservation area.

In the case of this property the existing timber windows, which are one over one sashes, and a single multi-pane windows to the lower ground floor, contribute to the significance of the conservation area. It is considered that, for the reasons outlined above, the replacement UPVC windows would cause less than substantial harm to the significance of the heritage asset (NPPF, 2008), namely the Headland Conservation Area. Further to this with regard to the replacement of the UPVC windows, it is noted that the NPPF seeks positive enhancement and it is considered the continued use of UPVC in this instance continues the harm caused. There is nothing presented within the application to demonstrate that this harm will be outweighed by the public benefits of the proposal.

**Headland Parish Council** – I have not received any objections to this application from Headland Parish Councillors.

**Civic Society** – no comments received.

## **PLANNING POLICY**

2.10 In relation to the specific policies referred to in the section below please see the Policy Note at the end of the agenda.

Local Policy

## HARTLEPOOL LOCAL PLAN

2.11 The following policies in the adopted Hartlepool Local Plan 2018 are relevant to the determination of this application:

HE1: Heritage Assets  
 HE3: Conservation Areas  
 HE7: Heritage at risk  
 LS1: Locational Strategy  
 QP3: Location, Accessibility, Highway Safety and Parking  
 QP4: Layout and Design of Development  
 QP5: Safety and Security  
 QP6: Technical Matters  
 SUS1: The Presumption in Favour of Sustainable Development

## NATIONAL PLANNING POLICY FRAMEWORK (NPPF)(2023)

2.12 In December 2023 the Government issued a revised National Planning Policy Framework (NPPF) replacing the 2012, 2018, 2019, 2021 and September 2023 NPPF versions. The NPPF sets out the Government's Planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The overriding message from the Framework is that planning authorities should plan positively for new development. It defines the role of planning in achieving sustainable development under three overarching objectives; an economic objective, a social objective and an environmental objective, each mutually dependent. At the heart of the Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless policies within the Framework provide a clear reason for refusal or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The following paragraphs are relevant to this application:

PARA001: Role of NPPF  
 PARA002: Determination of applications in accordance with development plan  
 PARA003: Utilisation of NPPF  
 PARA007: Achieving sustainable development  
 PARA008: Achieving sustainable development  
 PARA009: Achieving sustainable development  
 PARA010: The presumption in favour of sustainable development  
 PARA011: The presumption in favour of sustainable development  
 PARA012: The presumption in favour of sustainable development  
 PARA038: Decision making  
 PARA047: Determining applications  
 PARA055: Planning conditions and obligations  
 PARA056: Planning conditions and obligations  
 PARA131: Achieving well-designed places

PARA135: Achieving well-designed places  
 PARA164: Energy Efficiency  
 PARA195: Conserving and enhancing the historic environment  
 PARA196: Conserving and enhancing the historic environment  
 PARA200: Proposals affecting heritage assets  
 PARA203: Proposals affecting heritage assets  
 PARA205: Proposals affecting heritage assets  
 PARA208: Proposals affecting heritage assets  
 PARA212: Enhance or reveal significance of heritage assets  
 PARA224: Implementation

## PLANNING CONSIDERATIONS

2.13 The main issues for consideration in this instance are the appropriateness of the proposal in terms of the policies and proposals held within the Development Plan and in particular the impact on the character and appearance of the existing dwelling and conservation area and any other relevant planning matters as identified below.

### IMPACT ON THE CHARACTER & APPEARANCE OF THE EXISTING DWELLING AND CONSERVATION AREA

2.14 When considering any application for planning permission that affects a conservation area, the 1990 Act requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The NPPF goes further in seeking positive enhancement in conservation areas to better reveal the significance of an area (para. 212). It also looks for Local Planning Authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness (paras. 196 & 203).

2.15 Further to this, at a local level, Policy HE3 states that the Council will seek to ensure that the distinctive character of Conservation Areas within the Borough will be conserved or enhanced through a constructive conservation approach. Proposals for development within Conservation Areas will need to demonstrate that they will conserve or positively enhance the character of the Conservation Areas.

2.16 As identified in the comments received from the Council's Head of Service for Heritage and Open Spaces above, the conservation area is considered to be at risk due to the accumulation of modern materials, in particular the removal of traditional windows and doors. As identified in the comments received from the Council's Head of Service for Heritage and Open Spaces above, the detail and standard joinery evident on the Headland is considered to contribute to its unique character. Windows are usually vertical sliding sash containing a single pane of glass, sometimes divided by a single vertical glazing bar. Some of the earlier type of multi-paned sash windows are found on lesser windows on rear elevations or to basements. Canted bay windows are also a feature of the Headland, sometimes running up the front elevation from basement to attic, or in other instances forming a single projecting oriel window at first floor.

2.17 In contrast, modern replacements are noted to detract from the character of the area as they look different, uPVC having a much smoother more regular finish

that does not age over time in the same way as timber. The Council's Head of Service for Heritage and Open Spaces notes that it is these small but significant details that contribute to the special character of a timber sash window and thus to the appearance of a conservation area.

2.18 Policy HE7 of the Local Plan sets out that the retention, protection and enhancement of heritage assets classified as at risk is a priority for the Council. The NPPF (and Local Plan Policy HE3) requires works that would result in less than substantial harm is supported by justification in terms of the public benefit that would outweigh that harm.

2.19 The application proposes replacement windows with uPVC frames to the cellar, ground, first and second floors of the property and while the applicant has sought to replicate a traditional method of opening for the windows, it is considered the proposed uPVC windows would cause less than substantial harm to the character and appearance of Headland Conservation Area (and that of the main dwelling) due to the design, detailing and use of non-traditional materials (as articulated in the Council's Head of Service for Heritage and Open Spaces comments above), and are therefore unacceptable in this respect – as was the case when the same proposals were considered as part of an application in 2020 (H/2020/0474) that was refused on the grounds of the identified harm to the heritage asset of the conservation area.

2.20 Paragraph 208 of the NPPF (2023) requires that works that would result in 'less than substantial harm' (which is within the scale of harm set out in the NPPF, namely "substantial harm, total loss or less than substantial harm" to the significance of a heritage asset) requires that this harm be weighed against any public benefits of the proposal. The Council's Head of Service for Heritage & Open Space has identified these works as causing less than substantial harm where no public benefits have been identified by the applicant. In this instance, it is considered that the applicant has not sought to identify any clear public benefits as justification for the harm caused.

2.21 The only benefit noted in the submitted Heritage Statement relates to the thermal performance of the property, however this would be a solely personal benefit rather than a public benefit. Notwithstanding that, the recently published update to the NPPF (December 2023) at paragraph 164 requires Local Planning Authorities to give significant weight to improvements to existing buildings to support energy efficiency, which would potentially include replacement windows, but also cautions that where the proposals would affect conservation areas, the other relevant policies within the Framework still apply (namely those heritage policies of Chapter 16 of the NPPF). This change in emphasis in the recently published update to the NPPF is not therefore considered to alter the consideration of the application in relation to the harm to a heritage asset that has been identified (which is the case with this application).

2.22 This approach is supported within a recent dismissed appeal decision (Appeal Ref: APP/H0724/W/23/3330638, decision dated 08/01/2024) for uPVC windows to a property within the Headland Conservation Area of Hartlepool where

the Inspector concludes that "...the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal...".

2.23 Finally, Officers are not persuaded that any (public) benefits could not be achieved by a proposal which would be less harmful to the significance of the designated heritage asset i.e. through the use of appropriate materials and detailing.

2.24 The proposal is therefore considered to conflict with the provisions of the of the Hartlepool Local Plan (2018) and provisions of the NPPF (2023) which directs, at paragraph 205, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

## OTHER PLANNING MATTERS

2.25 It is considered that the proposals would not have a significant negative impact on the privacy of neighbouring occupiers as no new window openings are proposed that could create overlooking. As the proposals would not alter the footprint of the property, it is considered that there would not be any impact in terms of loss of light or overbearing appearance on neighbouring occupiers.

## CONCLUSION

2.26 It is considered that the introduction of windows of non-traditional design and materials would cause less than substantial harm to the significance of the conservation area by virtue of the design, detailing and use of materials. Furthermore, insufficient information has been provided to demonstrate that this harm is outweighed by any public benefits. It is therefore considered the development detracts from the character and appearance of the Headland Conservation Area, contrary to policies HE1, HE3 and HE7 of the Hartlepool Local Plan (2018) and paragraphs 203, 205, 208 and 212 of the National Planning Policy Framework 2023.

## EQUALITY AND DIVERSITY CONSIDERATIONS

2.27 There is no evidence of equality or diversity implications.

## SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

2.28 The Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making.

2.29 There are no Section 17 implications.

## REASON FOR DECISION

2.30 It is considered by Officers that the proposal in the context of relevant planning policies and material planning considerations is not acceptable as set out in the Officer's Report.

**RECOMMENDATION – REFUSE** for the following reason;

1. In the opinion of the Local Planning Authority, it is considered that the replacement windows to front cause less than substantial harm to the designated heritage asset (Headland Conservation Area) by virtue of the design and loss of a traditional features. It is considered that the works detract from the character and appearance of the existing building and the designated heritage asset. It is further considered that there is insufficient information to indicate that this harm would be outweighed by any public benefits of the development. The proposal is therefore contrary to policies HE1, HE3 and HE7 of the Hartlepool Local Plan (2018) and paragraphs 203, 205, 208 and 212 of the National Planning Policy Framework (2023).

**BACKGROUND PAPERS**

2.31 Background papers can be viewed by the 'attachments' on the following public access page:

<https://planning.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=160209>

2.32 Copies of the applications are available on-line:

<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

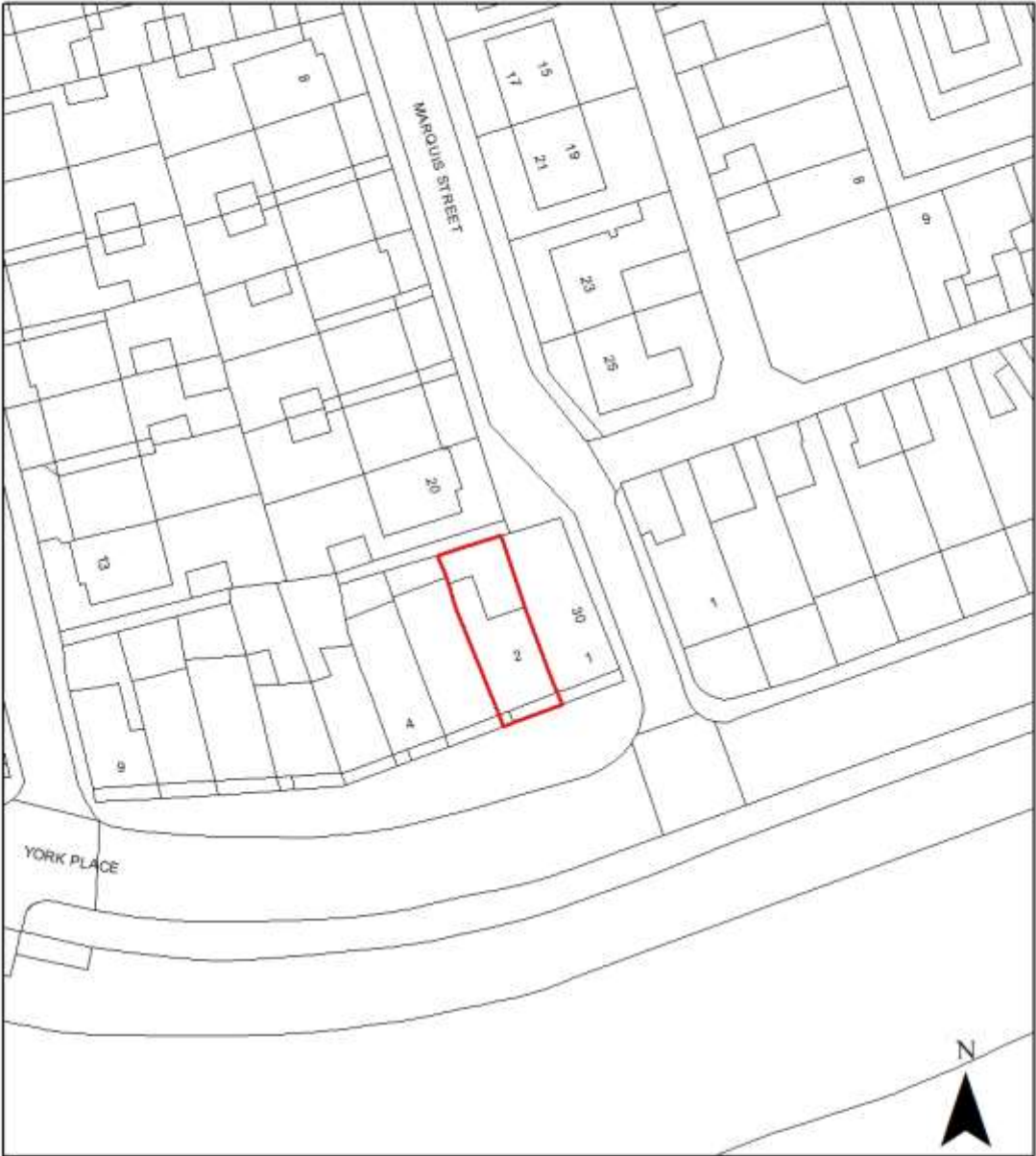
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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> BOROUGH COUNCIL Dept of - Development, Neighbourhoods and Regulatory Services Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRAWN <b>JB</b>	DATE <b>21.02.2024</b>
	SCALE <b>1:500</b>	
	DRG.NO <b>H/2023/0416</b>	REV

**No:** 3.  
**Number:** H/2023/0285  
**Applicant:** CARWOOD HOUSE LTD HAVERSTOCK HILL SECOND FLOOR (C/O FKGB) LONDON NW3 4QG  
**Agent:** MR MICHAEL DRAKE OFFICES AND PREMISES AT 2ND FLOOR 201 HAVERSTOCK HILL LONDON NW3 4QG  
**Date valid:** 25/10/2023  
**Development:** Change of use of dwelling (Use Class C3) to large house in multiple occupation for up to 8no. residents (Sui Generis)  
**Location:** 78 GRANGE ROAD HARTLEPOOL

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## PURPOSE OF REPORT

3.1 An application has been submitted for the development highlighted within this report accordingly Hartlepool Borough Council as Local Planning Authority is required to make a decision on this application. This report outlines the material considerations in relation to the proposal and presents a recommendation.

## BACKGROUND

3.2 The following planning applications are considered relevant to the proposed development:

HFUL/1986/0086 – Change of use of 78-80 Grange Road from dwelling to guest house, refused 08/04/1986.

HFUL/1986/0200 – Change of use of 78-80 Grange Road from dwelling to hostel for unemployed, homeless people and single people on probation, approved 16/07/1986.

HFUL/1990/0354 – Change of use of 78-80 Grange Road from house in multiple occupation to guest house, approved 25/07/1990.

HFUL/2003/0248 – Change of use of 78-80 Grange Road from guest house to single dwelling, approved 29/05/2003.

H/2008/0698 – Conversion of single dwelling to 4 flats, approved 05/03/2009.

## PROPOSAL

3.3 Planning permission is sought to change the use of the property from a six bedroom dwelling (C3 use class) to an eight person House in Multiple Occupation (HMO) (Sui Generis use class) at 78 Grange Road.

3.4 It is proposed to relocate a doorway and block up an existing window at ground floor in the side elevation of the rear offshoot of the property in order to

facilitate the proposed development. The plans initially submitted indicated two windows at first floor level would also be blocked up, however these works have previously been undertaken prior to the application being submitted under permitted development and do not therefore form part of the proposals for which planning permission is now sought.

3.5 The application has been referred to Planning Committee due to the number of objections received (more than 3) and at the request of a local ward councillor, in line with the Council's Scheme of Delegation.

## **SITE CONTEXT**

3.6 The applicant property (78 Grange Road) is a Victorian mid-terraced, two and a half storey property with rooms in the roof served by a dormer window roof light to the front. The property is situated on the north side of Grange Road, approximately 15m west of the junction with Thornville Road; surrounding properties are predominantly in residential use. The application site is adjoined to No 76 to the east and No 80 to the west. The property is within the Grange Conservation Area.

## **PUBLICITY**

3.7 The application has been advertised by way of neighbour letters (8), site notice and a press notice. To date, there have been three objections received by members of the public, and one comment neither in support nor against (commenting that conversion works have already taken place and the property is occupied).

3.8 The objections and concerns raised can be summarised as follows:

- There are already other HMOs in the area,
- Some existing HMOs do not have planning permission,
- Existing anti-social behaviour may be made worse,
- Owner of the property does not live locally,
- Increased pressure on parking in the area,
- Loss of property value,
- HMO will affect the conservation area,
- the property is already being used as a HMO.

3.9 Background papers can be viewed via the 'click to view attachments' link on the following public access page:

[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2023/0285](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2023/0285)

3.10 The period for publicity has expired, save for the awaited comments from Natural England (consultation expires 12/03/2024) and this is reflected in the officer recommendation within the report. Members will be updated of any response received at the committee meeting.

## CONSULTATIONS

3.11 The following consultation replies have been received:

**HBC Housing** – Provided the HMO complies with all legal aspects of the appropriate licence I have no objections. There is a lack of affordable accommodation for single people and this could help alleviate this problem.

**HBC Building Control** – A Building Regulation application will be required for '8 person HMO'.

**HBC Heritage & Open Spaces** – The application site is located in the Grange Conservation Area which is recognised as a designated heritage asset. Policy HE1 of the Local Plan states that the Borough Council will seek to preserve, protect and positively enhance all heritage assets.

When considering any application for planning permission that affects a conservation area, the 1990 Act requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The National Planning Policy Framework (NPPF) goes further in seeking positive enhancement in conservation areas to better reveal the significance of an area (para. 206, NPPF). It also looks for local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness (paras. 190 & 197, NPPF).

Further to this at a local level, Local Plan Policy HE3 states that the Borough Council will, 'seek to ensure that the distinctive character of conservation areas within the Borough will be conserved or enhanced through a constructive conservation approach. Proposals for development within conservation areas will need to demonstrate that they will conserve or positively enhance the character of the conservation areas.'

Grange Conservation Area is a predominantly residential area located to the west of the town centre. The area is characterised by large Victorian properties in generous gardens providing a spacious feel to the area. The houses are not uniform in design however the common characteristics such as the large bay windows, panelled doors, and slate roofs link them together to give the area a homogenous feel. A small row of commercial properties on Victoria Road links this residential area to the main town centre

The proposal is the change of use of a dwelling to a house in multiple occupation for up to 8 residents.

In principle there would be no objection to the change of use only. It is disappointing to see that to the rear offshoot it is proposed to remove a number of windows at ground and first floor level, and move the door providing access. It is requested that further consideration is given to this, in the case of the first floor, this would not impact on the proposed layout or the number of rooms provided. To the ground floor it is accepted that this would necessitate alternative arrangements, however it would appear that it would be possible to retain a number of the windows should the

bathroom and kitchen space be moved to the rear wall, and the new door is retained in its proposed location. These alternative options should be considered.

Updated Comments received 08/01/2024

I note the amended plans and it is disappointing that such changes have been made to the property. Given the remaining alterations that are proposed, I do not believe that these would cause less than substantial harm to the conservation area and therefore would not wish to object.

**HBC Ecology** – The proposal includes Change of use of an existing dwelling (Use Class C3) to large house in multiple occupation (HMO) for up to 8no. residents. The existing building is a large Victorian property. The roof line, guttering, soffits and fascia provide opportunities for bats. There is extensive internal work and changes to the windows.

A preliminary bat roost risk assessment shall be undertaken to determine if the building has any interest for bats. The risk assessment shall be completed by a suitably qualified bat ecologist.

Updated Comments received 18/01/2024

I note that the information submitted to support the application is now out-of-date and in some cases incorrect, as works bricking up windows and doors at the back has now been undertaken.

I had requested the Bat Risk Assessment as the information submitted is very limited, there are no photographs or detailed description of the proposed works and therefore I have had to take a precautionary approach. There are parks, large gardens and habitat 'corridors' in close vicinity to the property. This increases the opportunities for the property to be used for Bats. It was difficult to confirm the condition of the roof on Google Earth and determine if there were any missing or loose tiles that could provide access to voids for Bats to utilise.

The planning and heritage statement section on ecology (para 6.14 and 6.15) fails to reference the potential impact of the building refurbishment on Bats, and therefore I can only assume that this has not been considered.

I am happy to remove the requirement for a preliminary bat roost risk assessment provided that it is agreed that there are no external works to the property (as part of this application) other than those stated as moving a door and blocking up a ground floor window. However, should Bats or a Bat Roost be discovered during the refurbishment then works should cease and a professional ecologist with experience in building and Bats be contacted for guidance. To continue works in the knowledge of the presence of Bats / Bat Roost with no mitigation could result in prosecution by Natural England.

Habitats Regulations Assessment stage 1 screening (16/02/2024)

2. Stage 1 findings Nutrient neutrality

Is sewage disposed of via the public sewer systems of either Seaton Carew or Billingham WwTW?

Yes. There are no changes proposed to the foul and surface water arrangements which currently discharge to the Seaton Carew Wastewater Treatment Works. From there the water discharges to the North Sea via a long sea outfall.

Recreational disturbance

Is Recreational disturbance accounted for by the Hartlepool Local Plan Coastal Mitigation Scheme?

No. HRA Appropriate Assessment is required.

Habitats Regulations Assessment Stage 2 Appropriate Assessment (16/02/2024)  
(summarised)

## 5. Conclusion

The increased recreational disturbance is mitigated by the Hartlepool Coastal Mitigation Scheme and there will be no Adverse Effect on Integrity of any European Site.

Hartlepool Borough Council Local Planning Authority can lawfully permit this development.

Natural England must be consulted on the HRA Appropriate Assessment.

**Natural England** – *As noted in the ‘publicity’ section of this report, the consultation (in respect to the HRA Stage 2 Appropriate Assessment) is outstanding at the time of writing.*

**HBC Traffic & Transport** – There are no highway or traffic concerns, the traffic impact of such a property is likely to be less than a conventional large residential property.

**HBC Public Protection** – I would have no objections to this application subject to the following:

The installation of a suitable sound insulation scheme to the party walls to the neighbouring residential premises’ 76 and 80 Grange Road. The scheme shall ensure adequate protection is afforded against the transmission of noise between the neighbouring properties on either side.

I understand that the requirement of adequate sound insulation between the internal individual residential accommodation units will be included in building regulation requirements.

No construction/building works or deliveries shall be carried out except between the hours of 8.00 am and 6.00 pm on Mondays to Fridays and between 9.00 am and 1.00 pm on Saturdays. There shall be no construction activity on Sundays or on Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

**HBC Community Safety** – There are no community safety concerns in relation to this application.

**HBC Housing Standards** – no comments received.

**HBC Waste Management** - no comments received.

**Cleveland Police** – I've viewed the proposals and been along to site. There are alley gates to the rear of the property, however, they were closed when I visited, so I could only view the rear of the building from a distance.

I believe that the plans propose some sort of folding door arrangement for access to the rear yard? The existing door appears to be made from wood. Ideally there should be something atop the boundary fence/gate to discourage climbing.

There should be robust cycle anchoring points for the proposed bike storage area (Sold Secure Gold)

#### Doors

Doors to accommodation, and doors into the building from outside, should conform to at least the police preferred minimum standards:

PAS 24:2016

PAS 24:2022

#### Windows

Window frames must be securely fixed to the building fabric in accordance with the manufacturer's instructions and specifications.

All easily accessible windows should be certificated to one of the following standards:

PAS 24:2016

PAS 24:2022

#### Secure Mail delivery

There are increasing crime problems associated with the delivery of post to buildings containing multiple dwellings or bedrooms, such as identity theft, arson, hate crime, lock manipulation and 'fishing' for personal items (which may include post, vehicle and house keys, credit cards, etc).

In order to address such problems, I strongly recommend, where possible, mail delivery via secure external letter boxes meeting the requirements of the Door and Hardware Federation standard Technical Standard 009 (TS 009) or delivery 'through the wall' into a secure area of the dwelling. These should be easily accessible i.e. at a suitable height for a range of users. Mail and parcel delivery boxes should be equipped with high security cylinders that are not subject to master key access. Mail and parcel delivery boxes should be of robust construction, should incorporate an anti-fishing design and be fire resistant

#### Lighting

New low energy lighting should light the front and rear elevation of the building. A minimum 50lux uniform lighting level should be achieved.

Using luminaires with high colour rendering qualities (60 or above on the Colour Rendering Index for instance) often improves visual performance and people's personal experience of an area.

The Institute of Lighting Professionals (ILP) currently favours the use of good quality LED lighting and other energy effective light sources and advises against the use of fluorescent lighting which is environmentally unsustainable.

### Access Control

A door entry system and access control system should be installed. I would recommend a secure access and control system to the building, preferably with an 'air lock' type arrangement, that lets the inner door open when the outer external door is closed.

The technology by which the visitor door entry system operates is a matter of consumer choice, however it should provide the following attributes:

Access to the building via the use of a security encrypted electronic key (e.g. fob, card, mobile device, etc.).

Vandal resistant external door entry panel with a linked camera. Ability to release the primary and secondary entrance doorset from within the living accommodation.

Live audio and visual communication between the occupant and the visitor.

Ability to recover from power failure instantaneously.

If either doors are left open, a local alarm should be generated.

Unrestricted egress from the building in the event of an emergency or power failure.

Control equipment to be located in a secure area within the premises covered by the CCTV system and contained in a lockable steel cabinet to LPS 1175 Security Rating 1 or STS 202 Burglary Rating 1.

I would encourage the applicant to work with us to achieve a Secured by Design Award for the development.

The Secured by Design Homes 2023 document is here

[HOMES\\_GUIDE\\_2023\\_web.pdf \(securedbydesign.com\)](https://www.securedbydesign.com/HOMES_GUIDE_2023_web.pdf)

The premises should have robust management practices in place, and tenants should be suitably vetted.

**Cleveland Fire Brigade** – Cleveland fire Brigade offers no representations regarding the development as proposed. However Access and Water Supplies should meet the requirements as set out in: Approved Document B, Volume 1:2019, Section B5 for Dwellings. It should be noted that Cleveland Fire Brigade now utilise a Magirus Multistar Combined Aerial Rescue Pump (CARP) which has a vehicle weight of 18 tonnes. This is greater than the specified weight in AD B Vol 1 Section B5 Table 13.1.

Cleveland Fire Brigade also utilise Emergency Fire Appliances measuring 3.5m from wing mirror to wing mirror. This is greater than the minimum width of gateways specified in AD B Vol 1 Section B5 Table 13.1.

### Recommendations

Cleveland Fire Brigade is fully committed to the installation of Automatic Fire Suppression Systems (AFSS) in all premises where their inclusion will support fire safety, we therefore recommend that as part of the submission the client consider the installation of sprinklers or a suitable alternative AFS system.

Further comments may be made through the building regulation consultation process as required.

## PLANNING POLICY

3.12 In relation to the specific policies referred to in the section below please see the Policy Note at the end of the agenda.

### Local Policy

#### HARTLEPOOL LOCAL PLAN

3.13 The following policies in the adopted Hartlepool Local Plan 2018 are relevant to the determination of this application:

HE1: Heritage Assets

HE3: Conservation Areas

LS1: Locational Strategy

QP3: Location, Accessibility, Highway Safety and Parking

QP4: Layout and Design of Development

QP5: Safety and Security

QP6: Technical Matters

SUS1: The Presumption in Favour of Sustainable Development

#### NATIONAL PLANNING POLICY FRAMEWORK (NPPF)(2023)

3.14 In December 2023 the Government issued a revised National Planning Policy Framework (NPPF) replacing the 2012, 2018, 2019, 2021 and September 2023 NPPF versions. The NPPF sets out the Government's Planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The overriding message from the Framework is that planning authorities should plan positively for new development. It defines the role of planning in achieving sustainable development under three overarching objectives; an economic objective, a social objective and an environmental objective, each mutually dependent. At the heart of the Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless policies within the Framework provide a clear reason for refusal or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The following paragraphs are relevant to this application:

PARA001: Role of NPPF

PARA002: Determination of applications in accordance with development plan

PARA003: Utilisation of NPPF

PARA007: Achieving sustainable development

PARA008: Achieving sustainable development

PARA009: Achieving sustainable development

PARA010: Achieving sustainable development

PARA011: The presumption in favour of sustainable development

PARA012: The presumption in favour of sustainable development

PARA038: Decision making

PARA047: Determining applications  
 PARA055: Planning conditions and obligations  
 PARA056: Planning conditions and obligations  
 PARA131: Achieving well-designed places  
 PARA135: Achieving well-designed places  
 PARA164: Energy Efficiency  
 PARA195: Conserving and enhancing the historic environment  
 PARA196: Conserving and enhancing the historic environment  
 PARA200: Proposals affecting heritage assets  
 PARA203: Proposals affecting heritage assets  
 PARA205: Proposals affecting heritage assets  
 PARA208: Proposals affecting heritage assets  
 PARA212: Enhance or reveal significance of heritage assets  
 PARA224: Implementation

**3.15 HBC Planning Policy comments** – no objections.

## **PLANNING CONSIDERATIONS**

3.16 The main issues for consideration in this instance are the appropriateness of the proposal in terms of the policies and proposals held within the Development Plan and in particular the principle of development, amenity of neighbouring occupiers, crime and anti-social behaviour, impact on highway safety and car parking, impact on the conservation area and ecology. These and any other planning matters are set out below.

### **PRINCIPLE OF DEVELOPMENT**

3.17 The application site is located in a predominantly residential area, within the Grange conservation area and therefore the principle of a change of use to a house in multiple occupation (sui generis use class), which is also a residential use, is acceptable in planning policy terms. No objections have been received from the Council's Planning Policy section whilst HBC Housing has commented that 'there is a lack of affordable accommodation for single people and this could help alleviate this problem'. It is further noted that the property has previously been granted permission to be used for residential purposes other than as a single dwelling – e.g. a hostel, guest house and subdivision into four flats. The proposal is considered to be acceptable in principle subject to consideration of other material planning considerations, as detailed below.

### **AMENITY OF NEIGHBOURING PROPERTIES + FUTURE OCCUPIERS**

3.18 Policy QP4 (Layout and Design of Development) of the Hartlepool Local Plan (2018) requires that proposals should not negatively impact upon the amenity of occupiers of adjoining or nearby properties by way of general disturbance, overshadowing and visual intrusion particularly relating to poor outlook, or by way of overlooking and loss of privacy. The following minimum separation distances must therefore be adhered to:

- Principal elevation (habitable room window) to principal elevation (habitable room window) - 20 metres.

- Gable (blank or non-habitable room window) to principal elevation (habitable room window) - 10 metres.

3.19 The above requirements are reiterated in the Council's Residential Design SPD (2019).

3.20 It is considered that the amenity and privacy of the neighbouring properties would not be adversely impacted upon by the proposed development, given that none of the proposed alterations to the fenestration of the existing property would adversely affect privacy (a window and door being removed and a single access door being installed in a similar location within the rear offshoot). Furthermore, the proposal would not reduce existing separation distances and relationships between the host property and neighbouring properties. It is also noted that the majority of the existing window openings would continue to serve rooms of a similar nature. Finally, there are no extensions or alterations to the main building that would result in a loss of light or overbearing impact to neighbouring properties.

3.21 While it is noted objectors raise concerns with respect to noise nuisance and it is acknowledged that a HMO would have the potential to be a more intensive use than a single dwelling with regular comings and goings in comparison to those that might be associated with a single residential property, given that the proposal would result in an additional 2no. bedrooms overall, it is considered, on balance that the proposed conversion would be unlikely to give rise to any significant noise and disturbance issues. Furthermore and significantly, the Council's Public Protection Service have been consulted on the application and have raised no objections in relation to matters of amenity and noise disturbance, subject to conditions regarding noise attenuation between the applicant property and adjoining neighbouring properties, and limitations on the hours of work during construction/conversion. Such planning conditions are duly recommended.

3.22 Subject to the identified planning conditions, it is considered that the proposal would not result in an adverse loss of amenity for existing neighbouring properties or future occupiers of the proposed HMO in terms of noise disturbance.

3.23 With regard to the amenity of future occupiers of the property, it is noted that three bedrooms are to be introduced on the ground floor, one in the existing living room to the front, which would be served by a bay window, and two to the rear of the property with views into the rear yard. Given that the windows serving bedrooms 2 and 3 as shown on the proposed floor plan would have an oblique view towards each other, it is considered that this relationship would not result in such an unacceptable impact on the amenity and privacy of future occupiers as to warrant refusal of the application.

3.24 It is noted that no comments or objections have been raised by the Council's Housing Standards team, but the proposed room sizes appear to be broadly acceptable in planning terms. The applicant will need to take account of and apply for the requisite licencing requirements from the Housing Standards team in due course, however this is a separate matter and does not prevent the planning application being determined.

3.25 Given the assessment above, the proposals are, on balance, considered to be acceptable in respect to the amenity and privacy of neighbouring properties and future occupiers.

#### CRIME, FEAR OF CRIME, AND ANTI-SOCIAL BEHAVIOUR

3.26 Section 17 of the Crime & Disorder Act (1998) requires the planning system to give consideration to implications for crime and anti-social behaviour. This is reflected in Local Plan Policy QP5 (Safety and Security) and the provisions of the NPPF (2023).

3.27 A number of the objections received refer to concerns that the nature of the use proposed would have the potential to increase anti-social behaviour and crime in the area. While this concern is noted, it must be recognised that this is primarily a management and licencing issue rather than a planning issue. As noted above no objections are raised in relation to the potential for anti-social behaviour from HBC Community Safety, HBC Housing or HBC Public Protection.

3.28 Cleveland Police have made a number of recommendations as to how to achieve secure by design standards but do not object to the principle of development. This would fall within the need for good management and the recommendations can be relayed to the applicant for information by way of an informative on the decision notice.

3.29 Overall, the proposal is considered to be acceptable in this respect.

#### HIGHWAY SAFETY AND PARKING

3.30 The existing use of the property as a six bedroom dwelling is similar to the current proposals, albeit with two additional bedrooms to be accommodated at the property, and the Council's Traffic and Transport team have confirmed that there are no highway or traffic concerns and consider that the traffic impact of such a property is likely to be less than a conventional large residential property.

3.31 In addition, the site is within a short walking distance of the town centre and associated services and public transport links, and therefore it is anticipated that any future occupants would not be reliant on the use of a car.

3.32 The proposed development is therefore considered to be acceptable in this respect.

#### CHARACTER + APPEARANCE OF THE CONSERVATION AREA + EXISTING BUILDING

3.33 When considering any application for planning permission that affects a conservation area, the 1990 Act requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

3.34 The NPPF goes further in seeking positive enhancement in conservation areas to better reveal the significance of an area (para. 212). It also looks for Local Planning Authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness (paras. 196 & 203).

3.35 Further to this, at a local level, Policy HE3 states that the Council will seek to ensure that the distinctive character of Conservation Areas within the Borough will be conserved or enhanced through a constructive conservation approach. Proposals for development within Conservation Areas will need to demonstrate that they will conserve or positively enhance the character of the Conservation Areas.

3.36 As identified in the comments received from the Council's Head of Service for Heritage and Open Spaces, it is considered that the proposed change of use would not be harmful to the character of the conservation area, particularly at the scale of HMO proposed.

3.37 As noted above, the submitted scheme has been amended to more accurately reflect the existing situation in relation to window openings that have previously been blocked up within the rear of the property. Although the Council's Head of Service for Heritage and Open Spaces notes that these works are disappointing, they would have been carried out under permitted development (given that the Article 4 Direction that is in place for the Grange Conservation Area would not apply to a rear elevation that does not front a highway or open space). Following re-consultation, HBC Heritage and Open Spaces Manager has confirmed the remaining works, which are to the rear of the property, would not result in harm to the conservation area and raises no objection to the application.

3.38 As such, it is considered that there would not be any adverse impact on the character and appearance of the host dwelling or the Grange Conservation Area that would warrant refusal of the application and the proposed development is considered to be acceptable in this respect.

## ECOLOGY

3.39 The Council's Ecologist has been consulted on the application and has raised no concerns or objections to the proposed development. The Council's Ecologist has completed a stage 1 Habitat Regulation Assessment (HRA) to consider any Likely Significant Effects (LSE) on the Teesmouth & Cleveland Coast SPA (and Ramsar) arising from nitrate enrichment and increased recreational disturbance.

3.40 Due to the proposed creation of additional overnight accommodation (i.e. additional bedrooms), it is necessary to consider any Likely Significant Effects of the proposals as a result of nutrient neutrality. The application form states that the public mains sewer is to be used and as a result, all additional nutrient pollution will be processed by the Seaton Carew Waste Water Treatment Works and HBC Ecology have advised that any Likely Significant Effects from the application can be screened out at Stage 1 of the Habitats Regulations Assessment.

3.41 HBC Ecology have undertaken and HRA Stage 1 and HRA Stage 2 (Appropriate Assessment) to take account of the potential for recreational disturbance and any Likely Significant Effects on the designated sites and have concluded this would be mitigated by the Hartlepool Coastal Mitigation Scheme and there would be no Adverse Effect on the Integrity of any European. Natural England have been consulted on the Appropriate Assessment and their comments are awaited at the time of writing.

3.42 Notwithstanding that Natural England have not yet responded, the proposal is similar to others of a similar nature in the area with the same conclusions having been drawn by HBC Ecology, as such, officers consider the proposals to be acceptable in this respect, subject to formal confirmation from Natural England. This is reflected in the officer recommendation.

3.43 Initial comments from HBC Ecology requested a Preliminary Bat Roost Assessment to be submitted, however following the submission of updated details showing some of the works required for conversion had previously been carried out (understood to have been undertaken under permitted development), it has been confirmed by HBC Ecology that this is no longer required. The attention of the applicant can be drawn to the need to cease works and seek professional ecological advice in the event of bats or bat roosts are discovered during conversion works via an informative on the decision notice.

3.44 Given the above points, the proposed development is considered to be acceptable with regards to ecology matters.

#### OTHER PLANNING MATTERS

3.45 The proposals would allow for secure storage of bins in the rear yard area, to which no objections or comments have been received from appropriate technical consultees including HBC Waste Management. The proposals are therefore considered to be acceptable in this regard.

3.46 In respect to the comments from objectors regarding HMOs in the area operating without planning permission, it should be noted that a change of use from a dwelling (C3 Use) to a small HMO (up to 6 people sharing facilities – C4 Use) constitutes permitted development and therefore there will be instances where such HMOs do not require planning permission.

#### OTHER MATTERS

3.47 Some of the objections received raise concerns about the potential impact of the proposals on property value and that the applicant is not from the local area, however such matters are not material planning considerations.

3.48 Cleveland Fire Brigade has been consulted and has provided advice in respect of the carrying capacity of shared driveways, access for emergency vehicles and water supplies, confirming that further comments may be made through the Building Regulations consultation process as required. An informative note to make the applicant aware of this advice has been recommended accordingly, although

these, including any consideration for sprinklers, are principally Building Regulations matters and therefore this would be dealt with through the Building Regulations process.

## CONCLUSION

3.49 The application proposes a change of use from a six bedroom dwelling to a large house in multiple occupation with eight bedrooms, both of which are similar residential uses that are considered to be acceptable in what is broadly a residential area.

3.50 It is considered there would not be a significant negative impact on neighbour amenity, parking, highway safety, crime and anti-social behaviour or the character and appearance of the conservation area as a result of the proposed development, as such the officer recommendation is to approve the application subject to the conditions identified below.

## EQUALITY AND DIVERSITY CONSIDERATIONS

3.51 There is no evidence of equality or diversity implications.

## SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

3.52 The Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making.

3.53 There are no Section 17 implications.

## REASON FOR DECISION

3.54 It is considered by Officers that the proposal in the context of relevant planning policies and material planning considerations is acceptable as set out in the Officer's Report.

**RECOMMENDATION** – Subject to the consideration of any comments received from Natural England in respect of consultation outstanding at the time of writing, the recommendation is to **APPROVE**, subject to the conditions below:

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. The development hereby approved shall be carried out in accordance with the following plans: Site Location Plan at scale of 1:1250, drawing number 2023/MD/02 (Floor Plans + Elevation), received by the Local Planning Authority 03/11/2023, and drawing number 2023/MD/03 (Floor Plans + Elevation), received by the Local Planning Authority 20/12/2023.  
For the avoidance of doubt.

3. Prior to the development hereby approved being occupied, a scheme demonstrating suitable noise insulation between the application site and adjoining neighbouring properties at 76 and 80 Grange Road shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and following the written agreement of the Local Planning Authority, the agreed scheme shall be implemented prior to the occupation of the development hereby approved and retained thereafter for the lifetime of the development. In the interests of the amenity of future occupiers of the development and neighbouring occupiers.
4. The use of the property as a large House in Multiple Occupation (Sui Generis Use) hereby approved shall be limited to a maximum of eight occupants. For the avoidance of doubt and in the interests of the amenities of the occupants of neighbouring properties.
5. The waste storage arrangements as shown on drawing number 2023/MD/02 (Floor Plans + Elevation, received by the Local Planning Authority 03/11/2023) shall be implemented prior to first occupation of the development hereby approved and retained thereafter for the lifetime of the development. In the interests of visual amenity and the amenities of the occupants of neighbouring properties.
6. No construction/building works or deliveries shall be carried out except between the hours of 8.00 am and 6.00 pm on Mondays to Fridays and between 9.00 am and 1.00 pm on Saturdays. There shall be no construction activity on Sundays or on Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority. In the interests of the amenities of the area.

## BACKGROUND PAPERS

3.55 Background papers can be viewed by the 'attachments' on the following public access page:  
[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2023/0285](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2023/0285)

3.56 Copies of the applications are available on-line:  
<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> BOROUGH COUNCIL	DRAWN <b>JB</b>	DATE <b>22.01.2023</b>
	SCALE <b>1:500</b>	
Dept of - Development, Neighbourhoods and Regulatory Services Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRG.NO <b>H/2023/0285</b>	REV



**No:** 4.  
**Number:** H/2023/0314  
**Applicant:** MR MANMINDER SING DHATT ELWICK ROAD  
 HARTLEPOOL TS26 9AU  
**Agent:** LJC ARCHITECTURAL DESIGN MR GORDON  
 HENDERSON  
**Date valid:** 08/11/2023  
**Development:** Change of use from a vacant beauty salon (E Use Class)  
 to hot food takeaway (Sui Generis Use Class)  
**Location:** 91 ELWICK ROAD HARTLEPOOL

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## PURPOSE OF REPORT

4.1 An application has been submitted for the development highlighted within this report accordingly Hartlepool Borough Council as Local Planning Authority is required to make a decision on this application. This report outlines the material considerations in relation to the proposal and presents a recommendation.

## BACKGROUND

4.2 The following applications are considered to be relevant to the current application site;

HFUL/1987/0364 - Construction of new pitched roof to rear single-storey extension – Approved dated 17/08/1987.

HFUL/1992/0590 - Alterations to side elevation to provide door and window to new hairdressing salon – Approved dated 07/01/1993.

## PROPOSAL

4.3 Planning permission is sought for the change of use from a vacant commercial property (understood to be a beauty salon although there is no known planning record) to hot food takeaway (Sui Generis Use Class) within the ground floor of 91 Elwick Road (the upper floors remaining as storage and a bathroom). The ground floor of the site is proposed to feature a serving area, food preparation area, store and staff bathroom. The proposal also includes the erection of an external flue to the rear elevation. There are no other external works proposed although the submitted information notes ‘apart from decoration of the existing shop front’ (of which no further details are given or are indicated on the submitted plans).

4.4 The submitted supporting information indicates that the use would intend to operate as a fish and chip shop between the hours of 1130-1330hrs and 1615-2015hrs.

4.5 The application has been referred to Planning Committee in line with the Council's scheme of delegation due to the number of objections received (3 or more).

## SITE CONTEXT

4.6 The application site relates to an end of terrace building located on a corner plot on the junction of Elwick Road (north) and Grasmere Street (east). The site is within a predominantly residential area within the Burn Valley ward of Hartlepool.

## PUBLICITY

4.7 The application has been advertised by way of neighbour letters (27) and a site notice. To date, there have been 3 objections received (including a petition with circa 10 signatures), and one letter of 'do not object'.

4.8 The concerns and objections raised can be summarised below:

- Parking and increased traffic;
- Issues with anti-social behaviour, including littering and noise;
- Odours from cooking food;
- Increased pollution;
- Inadequate refuse provision;
- Loss of privacy for residents;
- Congregation of people around the property;
- The addition of another takeaway in the area.

4.9 Background papers can be viewed via the 'click to view attachments' link on the following public access page:

[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2023/0314](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2023/0314)

4.10 The period for publicity has expired.

## CONSULTATIONS

4.11 The following consultation replies have been received:

**HBC Public Health:** I wish to OBJECT to the planning application for the Hot Food Takeaway at 91 Elwick Road, Hartlepool. The reasons for this are outlined below:

Paragraph 96 of the National Planning Policy framework states that

*"Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow*

*for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;*

- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and*
- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.”*

Planning Practice Guidance also states that, “Local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making.” The local planning policy highlights the need to restrict the number of hot food takeaways in Hartlepool.

The Hartlepool Council Plan 2021/22 to 2023/24 vision outlines that Hartlepool will be a place where:

*“..people are enabled to live healthy, independent and prosperous lives.” and that “The appropriate conditions are in place to enable people to make healthier lifestyle choices including reducing obesity levels.”*

Therefore, at a policy level, Hartlepool Council is committed to the reduction of obesity in the population of the borough.

Although there are a wide range of factors contributing to the levels of obesity in Hartlepool, the 2007 UK government Foresight report, ‘Tackling obesity: future choices’ demonstrates evidence that the consumption of take-away and fast-foods are key determinants of excess weight gain.

Hartlepool has a high number of takeaway and fast food outlets. These contribute significantly to the increasing numbers of people within the borough that are obese and very overweight. Currently the proportion of adults that are overweight or obese is estimated to be 76.2% (Source: Office for Health Improvement and Disparities (based on the Active Lives Adult Survey, Sport England). This is an increasing trend over time.

For children the latest data from the National Child Measurement Programme shows that 25.9% of children in reception are overweight (including obesity) and 42.1% of children in Year 6 are overweight (including obesity). (Source: NHS Digital National Child Measurement Programme 2022/23) These are some of the highest figures in England.

Obesity is a driver of health inequalities as it leads to significant health impacts. Increased rates of obesity will contribute to premature deaths due to an increased risk of stroke, cancer and heart disease.

Data from Public Health England (at 30/12/2017) highlighted that Hartlepool has 160.5 hot food take-away outlets per 100,000 population, which was significantly higher than the national average of 96.1 per 100,000 population. The planning application acknowledges there are other takeaways in the vicinity of the proposed premises.

I therefore object to this application on the grounds that it is likely to have a detrimental effect on the local population and will contribute to poor health and health inequalities through the increase in the availability of high fat and sugar foods.

Additional comments received dated 28/02/2024

These are 3 year (2020/21 to 22/23) combined data figures for Burn Valley ward and are produced by OHID based on NCMP data.

Reception – Prevalence of obesity	10.0%
Reception – Prevalence of overweight (including obesity)	22.5%
Year 6 – Prevalence of obesity	20.8%
Year 6 - Prevalence of overweight (including obesity)	35.8%
Data 2020/21 to 22/23	
Office for Health Improvement and Disparities. Obesity Profile. 2023 <a href="https://fingertips.phe.org.uk">https://fingertips.phe.org.uk</a> © Crown copyright Accessed 28/02/24	

The data for Burn Valley ward reflects the England wide data however this still means we have a high number of children who are obese or overweight in the ward. Being overweight or obese has an adverse effect on a child's health in the short term and can lead to longer term health problems as an adult. The proportion of children in these groups is too high and we need to work to bring the proportion down.

**HBC Public Protection:** I would have no objection providing the following is met:

The delivery and despatch of goods to and from the site shall be limited to the hours of 7:30am and 6:30pm on Mondays to Fridays, 9am and 4pm on Saturdays, and at no time on Sundays or Public Holidays.

The daily opening hours of the proposed development are to be 11.30am – 8:30pm Monday to Sunday.

Prior to the installation of equipment for fume extraction, details that accord with appropriate guidance on the control of odour and noise from commercial kitchen exhaust systems shall be submitted to, and approved in writing by the Local Planning Authority. The development shall not be brought into end use until the approved extraction equipment has been installed in accordance with manufacturer's instructions and approved in writing by the Local Planning Authority. All equipment

installed as part of the approved scheme shall thereafter be retained, operated and maintained in accordance with that approval and shall be operated at all times when cooking is being carried out on the premises.

The applicant must ensure the flue from the extract system extends to at least 1m above the eaves.

Prior to being brought into end use there shall be sound proofing installed to deal with sound insulation of walls between the adjoining properties and the ceiling/floor of the residential accommodation above and details of this sound proofing submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the end use of the development and maintained thereafter.

**HBC Traffic and Transport:** There are no highway or traffic concerns.

**HBC Building Control:** A Building Regulation application will be required for 'change of use to take-away'.

**Cleveland Police:** I note mention of Secured by Design within the planning statement and would be happy to meet with the applicant to consider what safety and security measures can be 'built in', in order to reduce the potential for crime and anti-social behaviour in and around the site.

The applicant is intending to install CCTV, which should be capable of recording in colour in all lighting conditions. I would also recommend good levels of lighting to the front onto Elwick Road, and to the side onto Grasmere Street.

**HBC Waste Management** – no comments received.

**HBC Community Safety and Engagement** - no comments received.

## PLANNING POLICY

4.12 In relation to the specific policies referred to in the section below please see the Policy Note at the end of the agenda.

### Local Policy

#### HARTLEPOOL LOCAL PLAN (2018)

4.13 The following policies in the adopted Hartlepool Local Plan 2018 are relevant to the determination of this application:

LS1: Locational Strategy

SUS1: The Presumption in Favour of Sustainable Development

QP3: Location, Accessibility, Highway Safety and Parking

QP4: Layout and Design of Development

QP5: Safety and Security

QP6: Technical Matters

RC16: the Local Centres  
 RC18: Hot Food Takeaway Policy  
 RC21: Commercial Uses in Residential Areas

## NATIONAL PLANNING POLICY FRAMEWORK (NPPF)(2023)

4.14 In December 2023 the Government issued a revised National Planning Policy Framework (NPPF) replacing the 2012, 2018, 2019, 2021 and September 2023 NPPF versions. The NPPF sets out the Government's Planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The overriding message from the Framework is that planning authorities should plan positively for new development. It defines the role of planning in achieving sustainable development under three overarching objectives; an economic objective, a social objective and an environmental objective, each mutually dependent. At the heart of the Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless policies within the Framework provide a clear reason for refusal or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The following paragraphs are relevant to this application:

PARA007: Achieving sustainable development  
 PARA008: Achieving sustainable development  
 PARA009: Achieving sustainable development  
 PARA010: Achieving sustainable development  
 PARA011: The presumption in favour of sustainable development  
 PARA012: The presumption in favour of sustainable development  
 PARA047: Determining applications  
 PARA055: Planning conditions and obligations  
 PARA056: Planning conditions and obligations  
 PARA 091: Healthy, inclusive and safe places

4.15 **HBC Planning Policy:** The site is not within a designated commercial centre on the Hartlepool Local Plan Policies Map, the nearest being 'RC11: York Road South Edge of Town Centre Area' immediately to the east. It shall be noted that in any event, Local Plan policy RC11 states that hot food takeaway uses will not be permitted in this Area.

4.16 Local Plan Policy RC18: hot food takeaways provides strict control over the provision of new hot food takeaway uses in the borough. This is a policy response to a widely recognised obesity problem in the town (linked to the proliferation of hot food takeaways) and is thereby a measure which is intended to promote healthier food choices and therefore healthier lifestyles for residents. Together with identifying appropriate locations for such uses (see following paragraph) the policy sets floor space thresholds in such locations in the additional interest of helping to protect the vitality and viability of retail and commercial areas (hot food takeaway typically operate mainly in the evening and therefore their proliferation with associated closed shutters serves to reduce day time economic activity and social interaction).

4.17 Policy RC18 sets % thresholds for the amount of hot food takeaway floor space in a range of designated retail or commercial locations. The application site is not within such a defined location; the policy goes on to state that hot food takeaway uses will not be permitted outside of any designated retail or commercial centre or the limits to development of any village. The principle of the operation of a hot food takeaway from this site is therefore contrary to policy RC18.

4.18 The Council undertook a substantial amount of research in formulating policy RC18, which since adoption, has been supported by a number of appeal decisions. The supporting text to the policy states that an unhealthy diet is a proven causal link for many illnesses. As a consequence, one measure to tackle this issue is to control the number of fast-food take-away outlets in the borough. Whilst there are many other factors that lead to unhealthy lifestyles, the avoidance of a proliferation of hot food takeaways is an important tool in tackling the problem.

4.19 Paragraph 92 of the National Planning Policy Framework details that planning policies and decisions should aim to achieve healthy, inclusive and safe places, including by enabling and supporting healthy lifestyles, especially where this would address identified local health and well-being needs - for example through access to healthier food. Planning Practice Guidance (Paragraph: 004 Reference ID:53-004-20190722) states that the planning system can influence the built environment to improve health and reduce obesity and excess weight in local communities and confirms that local planning policies and supplementary planning documents can, where justified, seek to limit the proliferation of particular uses where evidence demonstrates this is appropriate (and where such uses require planning permission). Planning Policy are of the view that the proposed COU is in conflict with this national policy and guidance.

4.20 The Council's Public Health team will be able provide additional commentary on this issue, including statistical evidence, if required.

4.21 It is appreciated that the building is currently vacant; however an inappropriate use would not be desirable over vacancy and there a number of acceptable alternative uses it could be put to. It is also appreciated that the applicant has indicated that the takeaway would provide healthier options for customers; whilst this intention is to be commended, ultimately such options could not be required to be given to customers as a condition of planning permission and in any event, such options would not compensate for the 'standard' menu offerings to which the policy seeks to restrict new supply of (and which would inevitably be most popular to customers).

4.22 In conclusion, Planning Policy object to the application for the reasoning set out above.

## **PLANNING CONSIDERATIONS**

4.23 The main issues for consideration in this instance are the appropriateness of the proposal in terms of the policies and proposals held within the Development Plan and in particular the principle of the proposed use, public health, the design of the

proposals and impact on the character and appearance of the area and the impact of the proposals on the amenity of neighbouring land users.

## PRINCIPLE OF DEVELOPMENT

4.24 The application site is not allocated for a particular purpose within the Hartlepool Local Plan 2018, notably it does not form part of a designated local centre. Although there are a small number of commercial properties along this section of Elwick Road, these are not of a scale that would characterise a local centre and the area more generally is considered to be residential in nature.

4.25 The closest local centre which is situated directly to the east of the site is York Road South Edge of Town Centre Area (defined by Policy RC11). It should be noted that Local Plan Policy RC11 states that hot food take away uses would not be permitted in this area in any event (as detailed in the HBC Planning Policy comments above).

4.26 Policy RC18 identifies those locations deemed suitable and the proportion of floor space within those locations that are considered appropriate for hot food takeaway uses and expressly states that hot food takeaway uses will not be permitted outside of any designated retail or commercial centre. Irrespective of the locational threshold restrictions of Policy RC18, the site is considered to be located in a predominantly residential area.

4.27 Policy RC21 seeks to control commercial uses in residential areas, again identifying that designated centres are the most appropriate locations for these both in order to protect the vitality and viability of local centres, as well as the amenity of residents. The policy again states that applications for hot food takeaways in residential areas will not be permitted. The proposed development does not therefore comply with either of these policies.

4.28 Whilst it is acknowledged that the proposal would bring a vacant unit back in use, no details of how long the property has been vacant or how the property has been marketed has been provided. In any event, an inappropriate use (as is considered to be the case with this application) would not be desirable over vacancy and there a number of acceptable alternative uses it could be put to.

4.29 Furthermore, it is considered that the applicant has provided no substantial, convincing evidence to suggest that the proposal is the only viable use for the application site, or that it would not otherwise affect the vitality and viability of the nearby local centre. Although the application site lies close to a local centre, it is considered that this is not in its favour, as allowing such a use in this location would dilute the concentration of uses in the local centre itself. This view is supported in a dismissed appeal decision within the Borough for a hot food takeaway located outside of a designated retail centre on Raby Road (application reference: H/2019/0008, appeal reference APP/H0724/W/3234392, decision date 04/03/2020).

4.30 Being in a largely residential area and not in a designated retail centre, the proposal does not therefore comply with the requirements of the Local Plan. It is considered that there are no other material considerations of sufficient weight to

indicate that a decision should be taken other than in accordance with the Local Plan. As a result, it is considered that the application site is not a suitable location for the development and would conflict with Policies RC18 and RC21 of the Local Plan.

4.31 The proposed change of use of the property to a hot food takeaway is in direct conflict with the policy requirements of the Hartlepool Local Plan (2018) and is therefore unacceptable as a matter of principle. This would therefore warrant a reason for refusal of the application.

## PUBLIC HEALTH

4.32 The Council's Public Health Team have objected to the application and raised concerns about the impact of the proposals in relation to health and obesity. Data from Public Health England highlights that Hartlepool has significantly higher number of hot food takeaways per 100,000 population than the national average (160.5 hot food take-away outlets, compared to the national average of 96.1). The UK Government Foresight report (2007), 'Tackling obesities: future choices' demonstrates evidence that the consumption of take-away and fast-foods are key determinants of excess weight gain.

4.33 The site is within Burn Valley ward and the HBC Director of Public Health has provided figures relating to the levels of childhood obesity in the ward and the town as a whole. The Director of Public Health has commented that the data for Burn Valley ward reflects the England wide data however this still means that there is a high number of children who are obese or overweight in the ward. The Director of Public Health concludes that 'being overweight or obese has an adverse effect on a child's health in the short term and can lead to longer term health problems as an adult. The proportion of children in these groups is too high and we need to work to bring the proportion down'.

4.34 Such concerns and evidence base formed part of the development of the Local Plan Hot Food Takeaway Policy (RC18) and efforts to limit the number and location of such uses, which links to paragraph 96 of the National Planning Policy Framework in seeking to create healthy places. The National Planning Policy Framework (the Framework) requires policies and decisions to achieve healthy places which themselves enable and support healthy lifestyles. The Framework particularly supports this where it would address identified local health and well-being needs.

4.35 The health impacts considered have been supported in a number of dismissed planning appeals within the Borough including for a similar hot food takeaway proposal (application reference: H/2019/0008, appeal reference APP/H0724/W/3234392, decision date 04/03/2020). Within the appeal decision, the Inspectorate concluded "I consider that it is entirely consistent with national and local policy to seek to control the number of A5 uses in order to support healthy lifestyles. As such, I conclude that the proposal could be detrimental to the health of local residents. It is therefore contrary to Policy RC18 of the Local Plan, and guidance in the Framework.",

4.36 As noted in the HBC Planning Policy comments, it is appreciated that the applicant has indicated that the takeaway would intend to provide healthier options

for customers. Ultimately such options could not be controlled by way of a condition of planning permission and in any event, such options would not compensate for the 'standard' menu offerings to which the policy seeks to restrict new supply of (and which would inevitably be most popular to customers).

4.37 In view of the above considerations including the substantial comments from the Director of Public Health which draws parallels between the levels of hot food takeaways in Hartlepool and the health metrics of residents of Hartlepool and the Burn Valley ward in particular, the proposed development is considered to conflict with Local Plan policy requirements with respect to the principle of such a use in this location and is therefore considered to undermine efforts to promote healthy lifestyles and would have a negative impact on public health (and the health of local residents) if approved.

4.38 It is therefore considered that the proposal is contrary to Policy RC18 of the Local Plan, and guidance in the Framework and that this would warrant a second reason for the refusal of the application.

#### IMPACT ON CHARACTER AND APPEARANCE OF EXISTING BUILDING & SURROUNDING AREA

4.39 The proposal includes the erection of a large flue to the rear of the property. Whilst views towards the proposed flue from the front and main street scene of Elwick Road would be screened by the host property, it is considered that that the flue would be clearly visible from the street scene and the residential properties on Grasmere Street when viewed directly to the east, given the end of terrace location of the application site and that views to the existing rear elevation are clearly visible from Grasmere Street.

4.40 By virtue of the predominantly residential nature of the area surrounding the application site, there are no similar flues or structures and in this context, the proposal would represent a significant incongruous and inappropriate feature to the detriment of the character and appearance of the host property and surrounding area.

4.41 The proposed flue would be a significant size and would project above both the roof of the two storey rear off shoot and the eaves height of the main property. It is considered that the flue would have an industrial appearance that would not be in keeping with the broadly residential nature of the immediate surrounding area.

4.42 This view is considered to be supported within the aforementioned dismissed appeal decision for a hot food takeaway and associated flue (application reference: H/2019/0008, appeal reference APP/H0724/W/3234392, decision date 04/03/2020). The Inspector noted that *“whilst the size of the flue is dictated by its function, as the area around the appeal site is predominantly residential, with no similar flues, it does appear somewhat alien and out of keeping with the residential character of the surrounding area. This contrast is particularly marked to the rear of the appeal site, where the flue appears in the context of rear gardens, yards and extensions”*.

4.43 It is considered that the proposed flue element would underline Officer's overall concerns that the proposed use and associated development is inappropriate within this location and would result in a detrimental impact on the character and appearance of the wider area.

4.44 Overall it is considered that the proposal would result in an unacceptable impact on the character and appearance of the area, contrary to the provisions of Local Plan Policies QP4 and RC21, which, amongst other things, seek to control the location of hot food takeaways and ensure that development is of an appropriate form, respects its surroundings, is aesthetically pleasing and well designed.

4.45 It is considered that the identified harm would warrant a further reason for the refusal of the application.

#### AMENITY AND PRIVACY OF NEIGHBOURING LAND USERS

4.46 As noted above, the relevant policies of the Hartlepool Local Plan prohibit hot food takeaways from being located outside of designated retailing centres (and where such uses are deemed acceptable). In this instance, the application site is located outside of a designated centre where Policy RC21 prevents such uses.

4.47 Notwithstanding this, Policy RC21 only supports commercial uses where there is no significant detrimental effect on the amenities of occupiers of adjoining or nearby premises in terms noise, smell, dust or excessive traffic generation. Policy RC21 also seeks to control hours of operation to 8am-6pm, that the current proposal (and its intended hours of operation) would also conflict with.

4.48 Notwithstanding the above requirements (including the conflict between the proposed hours and those stipulated within Policy RC21), the Council's Public Protection team have raised no concerns regarding the proposed change of use and associated external flue subject to a number of recommended planning conditions including restrictions on opening hours (to 11.30am – 8:30pm Monday to Sunday, reflective of those indicated by the applicant), delivery times, full technical details of the flue and extraction system (to address noise and odour including a requirement for the flue to project at least 1m above eaves level) and for sound insulation measures between the application site and the adjoining property.

4.49 These matters would need to have been secured by appropriate, separate planning conditions had the application been deemed acceptable in all respects. Subject to such recommended conditions, it is considered that the proposal is unlikely to result in an unacceptable impact on the amenity of neighbouring properties in terms of noise disturbance and odours.

#### Impact on No. 93 Elwick Road (west)

4.50 To the west of no. 91 Elwick Road is the adjoining neighbouring property no. 93 Elwick Road. The proposed flue to the rear would adjoin the side/east elevation of the existing offshoot to the rear of the host property (which adjoins a similar projecting off shoot to the rear of No 93). The proposed flue would be set off from the common boundary to No 93 by approximately 3m (in effect the width of the existing

rear off shoot). Owing to this distance and relationship, it is considered that the proposed flue would be primarily screened from the rear elevation (and rear amenity/yard area) of No 93.

4.51 As noted above, HBC Public Protection have raised no objections to the proposals (including the flue that would achieve the requisite 1m clearance above eaves level) subject to identified planning conditions that would seek to address matters of noise and odours.

4.52 In view of the above, it is considered that the proposal would not result in an unacceptable impact on the amenity and privacy of this neighbouring property in terms of loss of outlook, overbearing, overshadowing and overlooking, noise disturbance and odours as to warrant a refusal of the application.

Impact to properties to the east, in particular No. 89 Elwick Road and 1 and 3 Grasmere Street (east)

4.53 Beyond the highway of Grasmere Street and to the east of the host dwelling is an end of terrace property with a beauty salon to the ground floor (89 Elwick Road, facing north) with No 1 Grasmere Street presenting itself facing west. To the south east is No 3 Grasmere Street. A separation distance of approximately 13 metres would remain between the proposed flue and the west elevations of these neighbouring properties with the presence of the highway of Grasmere Street in between.

4.54 As noted above, HBC Public Protection have raised no objections to the proposals (including the flue that would achieve the requisite 1m clearance above eaves level) subject to identified planning conditions that would seek to address matters of noise and odours.

4.55 In view of the above, it is considered that the proposal would not result in an unacceptable impact on the amenity and privacy of these neighbouring properties in terms of loss of outlook, overbearing, overshadowing and overlooking, noise disturbance and odours as to warrant a refusal of the application.

Impact on properties to rear (4 Grasmere Street, south) and 3 Keswick Street (South west)

4.56 To the rear of the application site is No 4 Grasmere Street (south) which presents a blank gable side elevation that adjoins the southern boundary of the application site. The proposed flue would be located approximately 8m from the blank gable side elevation of this property and would not extend beyond the front or rear elevations of this property. The proposed flue would also be partially screened by the existing two storey off shoots (serving that of the host dwelling and No 93 Elwick Road) from views to/from the rear elevation and rear amenity/yard area serving 4 Grasmere Street.

4.57 The proposal would also be located at an oblique angle and separation distance of approximately 14m to the rear boundary of No 3 Keswick Street (south west). As noted above, the existing two storey off shoot would assist in screening the

main element of the proposed flue from the rear elevation and rear amenity/yard area serving this neighbouring property.

4.58 As noted above, HBC Public Protection have raised no objections to the proposals (including the flue that would achieve the requisite 1m clearance above eaves level) subject to identified planning conditions that would seek to address matters of noise and odours.

4.59 In view of the above, it is considered that the proposal would not result in an unacceptable impact on the amenity and privacy of these neighbouring properties in terms of loss of outlook, overbearing, overshadowing and overlooking, noise disturbance and odours as to warrant a refusal of the application.

#### Impact on properties to the front (north)

4.60 The application site fronts onto Elwick Road with an established shop front. The proposed flue would be located to the rear and given that it would not project above the main ridge height of the building, it is considered that limited, if any, views would be achievable from the properties to the front/north.

4.61 As noted above, HBC Public Protection have raised no objections to the proposals (including the flue that would achieve the requisite 1m clearance above eaves level) subject to identified planning conditions that would seek to address matters of noise and odours.

4.62 In view of the above, it is considered that the proposal would not result in an unacceptable impact on the amenity and privacy of these neighbouring properties to the front/north in terms of loss of outlook, overbearing, overshadowing and overlooking, noise disturbance and odours as to warrant a refusal of the application.

#### Impact on host building (91 Elwick Road)

4.63 The submitted existing and proposed floor plans indicate that the upper floors of the building would remain as storage with a first floor bathroom in the two storey rear off shoot. The proposed flue would project close to the first floor windows in both the main rear elevation of the building and that of the two storey off shoot. Consideration is also given to the proposed flue achieving the requisite 1m clearance above eaves levels (as required by HBC Public Protection) and that it is understood that the windows in question do not serve habitable rooms.

4.64 Overall and in view of the above including the comments and requirements of HBC Public Protection, it is considered that the proposal would not result in an unacceptable impact on the amenity and privacy of existing and future occupiers of the host property in terms of loss of outlook, overbearing, overshadowing and overlooking, noise disturbance and odours as to warrant a refusal of the application.

## OTHER PLANNING MATTERS

4.65 The application site does not benefit from dedicated parking. HBC Traffic and Transport have raised no highway or traffic concerns. The application is considered to be acceptable in this respect.

4.66 In terms of waste storage, the application site is understood to be served by a small, enclosed yard to the rear (to which it appears that access is gained via the alleyway from Keswick Street). The application form indicates that a private refuse collection is to be arranged. HBC Waste Management were consulted on the application and have raised no comments or objections. Had the application been deemed acceptable in all respects, a planning condition could have secured to agree the provision of waste storage. Ultimately, the use will need to ensure that it satisfies relevant waste storage requirements and an informative directing them to seek advice from HBC Waste Management could have been secured by an informative.

4.67 Section 17 of the Crime & Disorder Act (1998) requires the planning system to give consideration to implications for crime and anti-social behaviour. This is reflected in Local Plan Policy QP5 (Safety and Security) and the provisions of the NPPF (2023). No objections are raised in relation to the potential for anti-social behaviour from HBC Community Safety or Cleveland Police. Cleveland Police have not raised any objections to the proposal in principle, however they have offered advice in relation to security measures. Had the proposal been found acceptable in other respects, this advice could be relayed to the applicant by a suitable informative. Overall, the proposal is considered to be acceptable in this respect.

## CONCLUSION

4.68 The application site is located within a largely residential area and not in a designated retail centre. The proposal does not comply with the requirements of the Local Plan and the principle of development is therefore not acceptable. This would warrant reason a reason for the refusal of the application.

4.69 The proposed development is also considered to conflict with Local Plan policy requirements with respect to undermining efforts to promote healthy lifestyles and would have a negative impact on public health (and the health of local residents). This would warrant a second reason for the refusal of the application.

4.70 It is further considered that the proposal (primarily the proposed flue) would result in an unacceptable impact on the character and appearance of the area and that this would warrant a third reason for the refusal of the application.

4.71 It is considered that there are no other material considerations of sufficient weight to indicate that a decision should be taken other than in accordance with the Local Plan. As a result, it is considered that the application site is not a suitable location for the development and would conflict with Policies QP4, RC18 and RC21 of the Local Plan and the provisions of the NPPF (2023).

4.72 The development is considered to be unacceptable and officer recommendation is to refuse for the reasons outlined below.

## **EQUALITY AND DIVERSITY CONSIDERATIONS**

4.73 There is no evidence of equality or diversity implications.

## **SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS**

4.74 The Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making.

4.75 There are no Section 17 implications.

## **REASON FOR DECISION**

4.76 It is considered by Officers that the proposal in the context of relevant planning policies and material planning considerations is not acceptable as set out in the Officer's Report.

## **RECOMMENDATION – REFUSE** for the following reasons:

1. The application site is not located within a suitable location for the proposed use, whereby Policies RC18 and RC21 of the Hartlepool Local Plan (2018) expressly prohibit hot food takeaway uses outside of designated retail centres in order to protect the vitality and viability of local centres and ensure that residential amenity is not negatively affected by such commercial uses.
2. In the opinion of the Local Planning Authority, the proposed hot food takeaway would be in conflict with Policy RC18 (Hot Food Takeaway Policy) of the Hartlepool Local Plan (2018) and paragraph 96(c) of the National Planning Policy Framework (2023) as the proposal would undermine efforts to promote healthy lifestyles and would have a potential negative impact on public health (and the health of local residents).
3. In the opinion of the Local Planning Authority, the proposed external flue would constitute an inappropriate form of development in a residential location by virtue of its size and location, resulting in an unacceptable harm to the character and appearance of the host building and surrounding area, contrary to the requirements of Policy QP4 and RC21 of the Hartlepool Local Plan (2018).

## **BACKGROUND PAPERS**

4.77 Background papers can be viewed by the 'attachments' on the following public access page:  
[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2023/0314](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2023/0314)

4.78 Copies of the applications are available on-line:  
<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

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**91 Elwick Road, Hartlepool**

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**THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY**

<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b> <b>Dept of - Development, Neighbourhoods</b> <b>and Regulatory Services</b> Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRAWN <b>JB</b>	DATE <b>21.02.2024</b>
	SCALE <b>1:500</b>	
	DRG.NO <b>H/2023/0314</b>	REV

**No:** 5.  
**Number:** H/2020/0444  
**Applicant:** MR GEOFF CLARK, MEAS EVENTS LIMITED, MAYFAIR LODGE, TEES ROAD, SEATON CAREW, HARTLEPOOL TS25 1DE  
**Agent:** MR DAMIEN WILSON, HIGH CROXDALE FARM, CROXDALE, DURHAM, COUNTY DURHAM DH6 5JR  
**Date valid:** 18/01/2021  
**Development:** Change of use from C3 Dwelling to a C1 Hotel including the provision of 3 x hot tubs and a wooden gazebo seating area (retrospective) to the front of the property.  
**Location:** MAYFAIR BUNGALOW TEES ROAD HARTLEPOOL

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## PURPOSE OF REPORT

5.1 An application has been submitted for the development highlighted within this report accordingly Hartlepool Borough Council as Local Planning Authority is required to make a decision on this application. This report outlines the material considerations in relation to the proposal and presents a recommendation.

## BACKGROUND

5.2 The following planning history is relevant to the current application;

H/2011/0489 - Mixed use development for the erection of 244 dwellings and the redevelopment of the Mayfair Centre to incorporate D2, A1, A3 and A4 uses including erection of two air domes, alterations to shop and Mayfair Centre building including new balcony, alterations to car park, formation of various mounds, formation of golf course, children's play areas, new lighting, alterations to vehicular entrance and landscaping including amenity open space – Approved 01/08/2012. A condition on this permission restricted its occupation to a person employed at the Sports & Leisure Complex and their dependents.

H/2013/0035 – Non-Material Amendment to planning application H/2011/0489 to allow alteration to golf dome layout to include cafe bar, retail and sports use (mixed use), internal alterations to entrance to football domes, previous golf shop. Approved 04/03/2013

H/2013/0435 - Erection of new sports dome for use as artificial ice rink and for events including sporting events, exhibitions, cultural events, social events and ceremonies, additional car parking area, relocation of gas tanks and landscaping. Approved 24/04/2014, although never implemented and now expired.

H/2021/0389 - Change of use of land for the siting of up to 42no holiday lodges, 1no office building, two ponds and landscaping – This proposal on land to the north was withdrawn on 03 May 2023.

## PROPOSAL

5.3 Retrospective planning permission is sought for the change of use of a residential bungalow (C3) to a small hotel/bed and breakfast accommodation in C1 Use Class. The proposed development will provide four guest en-suite bedrooms, one en-suite staff bedroom and one self-contained suite. The proposal includes the provision of three externally positioned hot tubs (these are already in situ), one will have direct access from the self-contained suite, one will have direct access from bedroom 4 and the third hot tub will be accessed from the main accommodation. The submitted plans indicate that the hot tubs are to be enclosed with 2m high close boarded fence. It is noted that an anomaly was later identified on the proposed floor plan whereby bedroom 2 is not indicated as having an access door. The case officer has requested amended plans, which have since been received. Vehicular access is taken from the existing access into the Mayfair Centre, with access to car parking. A small wooden seating area is also located to the front of the hotel on a grassed area, which formed part of the curtilage of the existing dwelling. The wooden seating structure is 3.8m in diameter with a height of 1.7m, the seating is approximately 3.4m from the existing building.

5.4 The application has been referred to planning committee owing to the number of objections received (3) in line with the Council's scheme of delegation.

## SITE CONTEXT

5.5 The site is the former bungalow located on the complex which is accessed from Tees Road. To the north-west beyond a car parking area are residential properties, (approximately 208m away). To the west are the buildings associated with the Mayfair Centre, with grass land beyond, to the south-west are commercial/industrial units associated with Tofts Farm Industrial Estate and Hunter House Industrial Estate. The two domes originally approved by permission H/2011/0489 have been removed though residual development remains. To the east is the Tees Road with grassland/dunes and the sea beyond. The area on the west side of Tees Road forms part of the Teesmouth and Cleveland Coast SSSI, SPA and Ramsar which is protected for its ecological value.

## PUBLICITY

5.6 The application has been advertised by way of site notices and neighbour letters (17). Following the initial consultation, 2 letters of support and 2 letters of objection were received (including more than one objection from the same person). Following receipt of updated amended plans, a further consultation was carried out and a further objection comment was received. Additionally, following the receipt of further revised plans relating to the redline site boundary, information related to the parking associated with the proposed development and updated floor plans to correct minor errors within the plans, a further consultation was carried out. Two further objections were received, with one being an additional objector, taking the overall number of objections to the proposed application to 3. Concerns were also received from a local ward councillor regarding noise disturbance (although the comments consider that sound reduction measures could assist).

5.7 The concerns/objections raised can be summarised as follows:

- Increase in traffic
- Increase in noise
- Light pollution
- Impact on biodiversity
- Impact on ecology within the area
- Use has already commenced.

5.8 The letters of support can be summarised as follows;

- An excellent and unique addition to the tourism offer in the area
- Increase the profile of the Hartlepool Borough as a leisure destination
- Bringing in additional revenue to the area
- Increased employment for the area which also supports the wider economy
- Beneficial to support on site accommodation for Mayfair events centre

5.9 The period for publicity has expired.

5.10 Background papers can be viewed via the 'click to view attachments' link on the following public access page:

[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2020/0444](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2020/0444)

## CONSULTATIONS

5.11 The following consultation replies have been received:

**HBC Building Control** – I can confirm that a Building Regulation application is required for the works as described.

UPDATE 19/09/2023

I can confirm that a Building Regulation application is required for Change of use from C3 Dwelling to a C1 Hotel including the provision of 3 x hot tubs and a wooden gazebo seating area (retrospective) to the front of the property.

**Emergency Planning Unit** - Having reviewed the associated documentation I can confirm Cleveland Emergency Planning Unit has no objections to the proposals however would like to make the following comment: The proposed application is within the consultation Distance/ Public Information Zone of the Fine Organics and Venators Control of Major Accident Hazard (COMAH) Regulation Top Tier Sites. Information regarding the possible effects of incidents at this site and the actions to take in the event of an incident is included in the regulation 18 letters which can be provided if required. The site is also in close proximity to the Northern Gas Networks Gas Pipeline and the Conoco Philips pipeline. The site is also now within the Nuclear Power Stations Detailed Emergency Planning Zone which means we have to include it in our planning for an off- site nuclear emergency. The main difference being that staff need to be aware of what to do in an emergency and have access to stable

iodine tablets. As the numbers are low this should not be a problem as generic advice is stay indoors and if we needed to evacuate then there would be time to do this.

**HBC Engineering Consultancy (Flood Risk Officer)** - In response to your consultation on the above application, I have no objection to proposals in respect of contaminated land or surface water management.

UPDATE 12/01/2022

In response to your consultation on the above amended application, we have no further comments to make.

UPDATE 28/09/2023

In response to your consultation on the above amended application we have no objection to proposals in respect of surface water management or contaminated land.

**HBC Traffic and Transport** - There are no highway or traffic concerns.

UPDATE 26/07/2021

There are no Highway or traffic concerns.

UPDATE 01/02/2022

There are no highway concerns with the amendments.

UPDATE 05/10/2023

I can confirm that if the proposed development ruled out the use of all the parking within the red line for the existing uses, then this would not be acceptable in highway safety terms.

We would require a condition which would allow the carpark to be shared between all proposed and current uses.

**Health and Safety Executive (HSE)** – Do not advise against this development.

**Office for Nuclear Regulations (ONR)** – Do not advise against this development.

**HBC Ecology** - The application area is within approximately 55m of the Teesmouth and Cleveland Coast SSSI, SPA and Ramsar, and the SSSI impact risk zone web tool indicates that Natural England wish to be consulted on all planning applications except householder applications in this area. Natural England is therefore a statutory consultee for this application.

Due to the proximity of the SPA and Ramsar, a formal Stage 1 HRA has been undertaken. This assessment concludes that the proposals are not likely to significantly affect the SPA and Ramsar. By extension, the proposals will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar. Due to the nature of the building to be affected, and the nature of the proposed works, there is limited potential for direct impacts to protected species or important habitat. I have no objection to the proposals.

**UPDATE 01/11/2022**

The proposal is compliant with the Habitats Regulations Assessment and there will be no harm to European Sites.

I have re-assessed the Likely Significant Effects on protected European Sites for this application. Harm from Nutrients was screened out at HRA stage 1, but likely harm from increased recreational disturbance triggered the need for a HRA stage 2 Appropriate Assessment. The HRA stage 2 Appropriate Assessment has found that there will be no harm.

**UPDATE 14/02/2023**

I have no further comment on this application. I agree with the HRA and NN assessments that have previously been carried out (previous HBC Ecologist) and agree with the findings.

**UPDATE 29/09/2023**

The amendments do not affect the previous comments made by the Ecology Team or the conclusions made in the previous Habitat Regulations Assessment. I have no objection to the revised proposals.

**Natural England** - Natural England agrees with the conclusion of the HRA and has no objection to the proposed development.

**HBC Public Protection** – I object to this application in part. I would have no objections to the change of use from C3 Dwelling to a C1 Hotel. I would however object to the use of the hot tubs located outside due to the proximity of residential properties. This department has previously received noise complaints concerning people noise and music from the use of the hot tub late at night until the early hours unfortunately without being able to condition the use of the hot tubs with an hours restriction it is my opinion the hot tubs would have a detrimental effect on residential amenity. The issues being noise impact on local residents from customers enjoying them with no hours restriction.

**UPDATE 20/01/2023**

Without an hours condition I would be asking for an acoustic fence around each of the hot tubs.

**HBC Economic Growth** - Support the application as it is bringing a building into economic use and providing accommodation for the visitor economy.

**PLANNING POLICY**

5.12 In relation to the specific policies referred to in the section below please see the Policy Note at the end of the agenda.

Local Policy

## HARTLEPOOL LOCAL PLAN (2018)

5.13 The following policies in the adopted Hartlepool Local Plan 2018 are relevant to the determination of this application:

CC1: Minimising and adapting to climate change  
 HSG11: Extensions and alterations to existing dwellings  
 LT1: Leisure and Tourism  
 LT3: Development of Seaton Carew  
 LT4: Tourist Accommodation  
 NE1: Natural Environment  
 NE2: Green Infrastructure  
 QP1: Planning Obligations  
 QP3: Location, Accessibility, Highway Safety and Parking  
 QP4: Layout and Design of Development  
 QP5: Safety and Security  
 QP6: Technical Matters  
 QP7: Energy Efficiency  
 RC1: Retail and Commercial Centre Hierarchy  
 SUS1: The Presumption in Favour of Sustainable Development

## NATIONAL PLANNING POLICY FRAMEWORK (2023)

5.14 The NPPF sets out the Governments Planning policies for England and how these are expected to be applied. It sets out the Government requirements for the planning system. The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic heading – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires Local Planning Authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, these being; empowering local people to shape their surroundings, proactively drive and support economic development, ensure a high standard of design, respect existing roles and character, support a low carbon future, conserve the natural environment, encourage re-use of previously developed land, promote mixed use developments, conserve heritage assets, manage future patterns of growth and take account of and support local strategies relating to health, social and cultural well-being.

001 Policies for England  
 002 Planning law  
 003 NPPF read as a whole  
 007 Purpose of planning  
 008 Sustainable Development  
 009 Implementation of plans and relating to local circumstances  
 010 Planning in a positive way  
 011 Presumption on favour of sus development

012 Status of development plan  
 038 Positive planning  
 047 Development Plan and material considerations.  
 055 Planning Conditions  
 056 Planning Conditions  
 057 Planning Obligations  
 085 Economic growth  
 128 Efficient use of land  
 131 Design  
 135 Design  
 139 Refuse poor design  
 159 Avoiding vulnerability to climate change.  
 162 Renewables and energy efficiency  
 224 NPPF material Considerations

**5.15 HBC Planning Policy comments** - There are no Planning Policy concerns with regards to this proposal providing that the council's Public Protection officer is satisfied. The hotel will add to the tourism offer within Seaton Carew and is supported through Policy LT3. Policy LT1 sets out that "Major leisure and tourism developments in Hartlepool which are likely to attract large numbers of visitors will be expected to locate within the Town Centre, Mill House area and The Marina. The proposal is unlikely to attract large numbers of visitors and thus a sequential test was not required as part of this application. The walk from the site to the commercial area of Seaton is currently deemed to be safe (on a foot path) and visually appealing (green space to the east and west of the path) therefore a contribution to improve the link is not required. To ensure that visitors have the opportunity to enjoy walks in the area, a contribution of £250 per unit (6) should be secured for nearby Public Right of Way.

Further comments received 18/09/2023

No additional Planning Policy comments.

## PLANNING CONSIDERATIONS

5.16 The main issues for consideration in this instance are the appropriateness of the proposal in terms of the policies and proposals held within the Development Plan and in particular the principle of development and planning obligations, the impact on the visual amenity of the application site and the character and appearance of the surrounding area, the amenity of neighbouring land users and future occupiers, ecology, highway safety, flood risk and drainage, land contamination and relationship with hazardous installations .

## PRINCIPLE OF DEVELOPMENT

5.17 Local Plan Policy LT3 (Development at Seaton Carew) identifies Seaton Carew as a location to support tourism and leisure development. The Seaton Carew SPD identifies sites for commercial, recreational and tourism facilities.

5.18 Policy LT1 (Leisure and Tourism) sets out that major leisure and tourism developments in Hartlepool which are likely to attract large numbers of visitors will be

expected to locate with the Town Centre, the Mill House Edge of Town Centre Area or the Marina. However, Seaton Carew is also considered appropriate for such development. Given the site's proximity to services within Seaton Carew, it is deemed to be a sustainable location. No objections have been raised by HBC Planning Policy to the principle of development.

5.19 It is therefore considered the principle of development is acceptable subject to the consideration of other material planning matters.

### *Planning Obligations*

5.20 In the interests of providing sustainable development, in ensuring that the proposal is acceptable in planning terms, and in accordance with Local Plan Policy QP1 (Planning Obligations) and the Council's adopted Planning Obligations Supplementary Planning Document, the Council's Planning Policy team have confirmed that the development meets the criteria to request developer contributions.

5.21 In this instance and to ensure visitors have the opportunity to enjoy walks within the area, the Council's Planning Policy has requested a contribution of £250 per bedroom (6) (£1,500 in total) for the upgrading of nearby public rights of way. This will help towards improvements to accessibility and safety of walking links within the area which is considered to be acceptable by the Council's Planning Policy section and the Council's Countryside Access Officer. The applicant has agreed to this financial contribution, which will need to be secured through a section 106 legal agreement.

### IMPACT ON VISUAL AMENITY AND CHARACTER AND APPEARANCE OF SURROUNDING AREA

5.22 The application site is located within Seaton Carew and close to/within an existing leisure and tourist venture, although it is acknowledged that some of the structures that were associated with that use are no longer in operation at this time. The property which forms part of this application is a residential dwelling (C3) linked with the leisure operation. Whilst there is no structural extension proposed, the scheme does include the provision of three externally positioned hot tubs which are located to the rear of the property and are to be screened by timber fencing (notwithstanding the requirement for acoustic fencing in its place as detailed below within the Amenity section), There is a small seating area, which is set back from the public highway, and is screened from the wider area by the bungalow itself.

5.23 It is considered that the change of use, and the limited physical alterations, would not result in a significant impact upon visual amenity or the character and appearance of the surrounding area and are considered acceptable.

### IMPACT ON AMENITY OF NEIGHBOURING LANDS USERS AND FUTURE OCCUPIERS.

5.24 Paragraph 135 of the NPPF requires that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. Policy QP4 (Layout and Design of Development) of the Hartlepool

Local Plan (2018) stipulates that development should not negatively impact upon the relationship with existing and proposed neighbouring land users and the amenity of occupiers of adjoining or nearby properties by way of general disturbance, overlooking and loss of privacy, overshadowing and visual intrusion particularly relating to poor outlook. Proposals should also ensure that the provision of private amenity space is commensurate to the size of the development.

5.25 Policy QP4 also stipulates that, to ensure the privacy of residents and visitors is not significantly negatively impacted in new development, the Borough Council seeks to ensure adequate space is provided. The above requirements are reiterated in the Council's adopted Residential Design SPD (2019).

5.26 The following minimum separation distances must therefore be adhered to:

- Principal elevation (i.e. any elevation containing a habitable room window) to principal elevation - 20 metres.
- Gable elevation (i.e. those containing a blank or non-habitable room window) to principal elevation - 10 metres.

5.27 Objections have been received from neighbouring residents with regard to the impact the proposed use would have on the residential properties within the area, and the perceived impact it will have on neighbouring residents within the area in terms of noise and the impact from lighting.

5.28 The existing bungalow is in excess of 208m from the nearest residential property which is situated on De Haviland Way, whilst there is an intervening large car park and open grass land which separates the development site from these residential properties. Given the significant separation it is considered there would not be a significant impact upon the amenity and privacy of these neighbours in terms of outlook, overlooking, light pollution or an issue of over dominance.

5.29 The proposal includes the provision of 3 hot-tubs which are currently sited (2no.) to the rear elevation (north) and (1no.) to the side/rear elevation (north west) the plans indicate that they are enclosed by timber fencing (which is already in place), with one area having a rear access gate. The fencing indicated on the submitted drawings would not be acceptable and would be required to be an acoustic fence (as discussed below). Two of the hot-tubs are to be accessed by two of the bedrooms, with the third being accessed from the main building itself. Concerns and objections have been raised with regard to noise coming from the use of the hot-tubs.

5.30 The Council's Public Protection have been consulted and whilst they do not object to the use of the building as a hotel, they do have concerns in respect to the provision of the external hot-tubs and initially requested that an hours restriction be placed upon the use of the hot-tubs being restricted until 21:00hrs.

5.31 Paragraph 56 of the National Planning Policy Framework (NPPF) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests where a condition is:

1. necessary;
2. relevant to planning and relevant to the development to be permitted;
3. enforceable;
4. precise; and
5. reasonable in all other respects.

5.32 Each of these tests need to be satisfied for each condition that an authority intends to apply.

5.33 Given the scale of the development and the separation distances to the nearest dwellings (approximately 208 metres with an intervening car park) and notwithstanding the initial comments of HBC Public Protection, it is considered on balance that to impose an hours restriction on the use of the hot tubs would be unreasonable and unenforceable. Should an issue of noise and nuisance occur, these could be dealt with under other statutory legislative powers relating to nuisance that would be available to the Council, should a nuisance be established.

5.34 Following further discussions with HBC Public Protection and in light of the above considerations regarding an hours restriction, HBC Public Protection have accepted that an acoustic fencing could be provided to enclose the hot-tubs (instead of the proposed standard fencing). The provision of an acoustic fence to enclose the areas for the hot-tubs would not be an unreasonable request and would satisfy the general provisions of the planning condition 'tests'. The requirement for the details of the acoustic fence (to enclose the hot tubs) can be secured by an appropriate planning condition including its implementation within an appropriate timescale, given the retrospective nature of the application.

5.35 It is therefore considered on balance and subject to the appropriate condition as detailed above, that the application is acceptable with respect to impact upon neighbouring properties in terms of noise disturbance and impact on general amenity.

## ECOLOGY

5.36 Objections have been received with regard to the potential impact upon the wildlife within the area and upon biodiversity. The application area is within approximately 55m of the Teesmouth and Cleveland Coast SSSI, SPA and Ramsar site. Given the location of the site a Habitats Regulations Assessment (HRA) stage 1 and 2 has been undertaken to consider Likely Significant Effects (LSE) in terms of Recreational Disturbance and the any potential impact arising from nitrate pollution.

### *1) Recreational impacts on designated sites*

5.37 Due to the proximity of the SPA and Ramsar, a formal Habitat Regulations Assessment (HRA) has been undertaken by the Council's Ecologist as the competent authority. This assessment concludes that the proposals are not likely to significantly affect the Teesmouth and Cleveland Coast SPA and Ramsar in terms of recreational disturbance. Natural England has confirmed that they have no objection in respect of recreational impact on designated sites.

## 2) Nitrate Pollution

5.38 On 16 March 2022 Hartlepool Borough Council, along with our neighbouring authorities in the catchment of the Tees, received formal notice from Natural England that the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) is now considered to be in an unfavourable condition due to nutrient enrichment, in particular with nitrates, which are polluting the protected area. Given this application would involve development comprising overnight accommodation, it is considered the proposals are 'in scope' for further assessment. A Nutrient Budget Calculation (NNBC) has been undertaken, which concludes that the application does not result in a net increase in nitrates as a result of foul water discharging to the Seaton Carew Waste Water Treatment Works. A HRA Stage 1 Screening Assessment was duly completed by the Council's Ecologist which confirms there would not be a Likely Significant Effect on the designated sites in terms of nitrate pollution.

5.39 The Council's Ecologist has been consulted and considers due to the nature of the building to be affected, and the nature of the proposed works, there is limited potential for direct impacts to protected species or important habitat. The Council's Ecologist(s) therefore raises no objection. Given the location of the site, Natural England have been consulted, and have raised no concerns or objection to the proposals and confirm agreement with the findings of the HRA. The proposal is therefore acceptable in respect.

## HIGHWAY SAFETY

5.40 Objections have been received with respect to the increase in traffic, as a result of the proposed change of use. The site benefits from a large car parking area, which also serves the wider domes site. Through the course of the planning application an updated site plan was received, which illustrates the proposed parking associated with the proposed use, within the context of the wider site. The Council's Traffic and Transport team have been consulted and raise no concerns with regard to parking and highway safety. To secure the parking, an appropriately worded planning condition is recommended. Subject to the recommended planning condition, the application is therefore considered to be acceptable with respect to highway and pedestrian safety.

## FLOOD RISK AND DRAINAGE

5.41 The Council's Flood Risk Officer have been consulted on the application and have confirmed that they have no objections.

5.42 In view of the above, it is considered that the application is acceptable in this respect.

## LAND CONTAMINATION

5.43 The Council's Flood Risk Officer has been consulted and raises no concerns or objection in relation to land contamination. The application is therefore considered to be acceptable with respect to matters of land contamination.

## RELATIONSHIP WITH HAZARDOUS INSTALLATIONS

5.44 Given the proximity of the site to a number of hazardous installations, the proposal was considered through the Planning Advice Web App of the Health & Safety Executive (HSE) which confirms that the HSE does not advise against the proposal on safety grounds.

5.45 The Office for Nuclear Regulation has been consulted and does not consider the development to present a significant external hazard to the safety of the nuclear site (Hartlepool Power Station) and therefore does not advise against the development.

5.46 Cleveland Emergency Planning Unit has also been consulted and has confirmed that they have no objections to the application.

5.47 The proposal is therefore considered to be acceptable with respect to matters of health and safety and its relationship with hazardous installations.

## OTHER MATTERS

5.48 Objections have been raised with regard to non-compliance with conditions on the wider site which formed part of planning approval H/2011/0489 and also with regard to the untidy state of the wider site. Whilst these matters are acknowledged they are being considered through a separate procedures and do not form part of the consideration of this current application.

## EQUALITY AND DIVERSITY CONSIDERATIONS

5.49 There is no evidence of equality or diversity implications.

## SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

5.50 The Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making.

5.51 There are no Section 17 implications.

## REASON FOR DECISION

5.52 It is considered by Officers that the proposal in the context of relevant planning policies and material planning considerations is acceptable as set out in the Officer's Report.

**RECOMMENDATION – APPROVE** subject to the completing of a legal agreement to secure a Green Infrastructure Contribution £1,500 (£250 per room) and the following planning conditions;

1. The development hereby approved shall be carried out in accordance with the

following plans;

1016-CPM-P- EX-DR-A-4101 Rev A03 (Proposed Elevations)  
 1016-CPM-P- RL-DR-A-2101 Rev A03 (Proposed Roof Layout)  
 Received by the Local Planning Authority on 05/01/2022; and

Proposed Dedicated Parking Location Plan (1:1250),  
 1016 -CPM-P-00-DR-A-2101 Rev A03 (Proposed Floor Plan)  
 received by the Local Planning Authority on 18/09/2023.  
 For the avoidance of doubt.

2. Notwithstanding the submitted information, and within 1 month from the date of this approval, details of a minimum 2m (two metre) high (taken from the ground level) acoustic fence to enclose the 3no. external hot-tub areas as annotated on plan 1016-CPM-P- OO-DR-A-2101 Rev A03 (Proposed Floor Plan, received by the Local Planning Authority on 18/09/2023) shall be submitted to the Local Planning Authority. Thereafter the agreed scheme shall be implemented within 1 month from the date of the written agreement of the Local Planning Authority, or prior to the hot tubs being brought into use, whichever is the sooner and shall be retained for the lifetime of the development hereby approved.  
 In the interests of neighbouring amenity.
3. The parking and access area(s) associated with the development shall be kept available for the use of the development hereby approved, and the Sports and Leisure Development approved under the provisions of planning permission H/2011/0489, for the lifetime of the developments.  
 In the interests of the highway safety.
4. Notwithstanding the provisions of The Town and Country Planning (Use Classes) Order 1987 (as amended) and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting those orders), the development hereby approved shall be used solely as a Hotel/Guest House accommodation within the C1 Use Class and for no other Use within The Town and Country Planning (Use Classes) Order 1987 (as amended).  
 In the interests of the potential adverse impact of an unrestricted consent on the use of the site and the surrounding area.

## BACKGROUND PAPERS

5.53 Background papers can be viewed by the 'attachments' on the following public access page:

[https://edrms2.hartlepool.gov.uk/PublicAccess\\_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1\\_REF=H/2020/0444](https://edrms2.hartlepool.gov.uk/PublicAccess_Live/SearchResult/RunThirdPartySearch?FileSystemId=PL&FOLDER1_REF=H/2020/0444)

5.54 Copies of the applications are available on-line:

<http://eforms.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet>

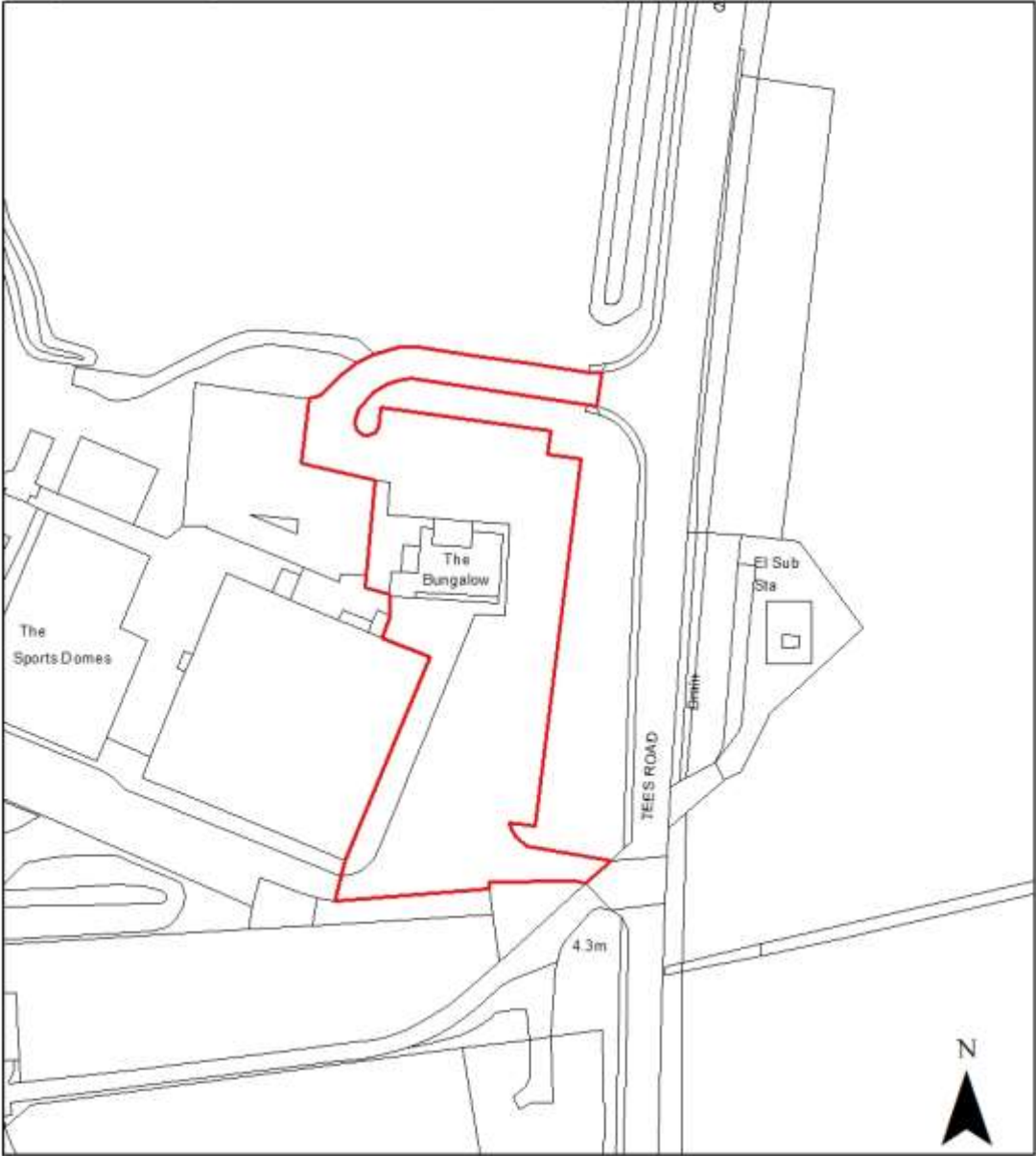
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Mayfair Bungalow Tees Road, Hartlepool



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> BOROUGH COUNCIL	DRAWN <b>JB</b>	DATE <b>21.02.2024</b>
	SCALE <b>1:1250</b>	
Dept of - Development, Neighbourhoods and Regulatory Services Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRG.NO <b>H/2020/0444</b>	REV

## **POLICY NOTE**

The following details a precis of the overarching policy documents referred to in the main agenda. For the full policies please refer to the relevant document, which can be viewed on the web links below;

### **HARTLEPOOL LOCAL PLAN POLICIES**

<https://www.hartlepool.gov.uk/localplan>

### **HARTLEPOOL RURAL NEIGHBOURHOOD PLAN**

[https://www.hartlepool.gov.uk/downloads/file/4876/hrnp\\_2016-2031 -  
made version - december 2018](https://www.hartlepool.gov.uk/downloads/file/4876/hrnp_2016-2031_-_made_version_-_december_2018)

### **MINERALS & WASTE DPD 2011**

[https://www.hartlepool.gov.uk/info/20209/local\\_plan/317/tees\\_valley\\_minerals  
and waste development plan documents for the tees valley](https://www.hartlepool.gov.uk/info/20209/local_plan/317/tees_valley_minerals_and_waste_development_plan_documents_for_the_tees_valley)

### **REVISED NATIONAL PLANNING POLICY FRAMEWORK (NPPF) 2023**

[https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NP  
PF\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf)

## ILLUSTRATIVE EXAMPLES OF MATERIAL PLANNING CONSIDERATIONS

Material Planning Considerations	Non Material Considerations
<i>Can be taken into account in making a planning decision</i>	<i>To be ignored when making a decision on a planning application.</i>
<ul style="list-style-type: none"> <li>Local and National planning policy</li> </ul>	<ul style="list-style-type: none"> <li>Political opinion or moral issues</li> </ul>
<ul style="list-style-type: none"> <li>Visual impact</li> </ul>	<ul style="list-style-type: none"> <li>Impact on property value</li> </ul>
<ul style="list-style-type: none"> <li>Loss of privacy</li> </ul>	<ul style="list-style-type: none"> <li>Hypothetical alternative proposals/sites</li> </ul>
<ul style="list-style-type: none"> <li>Loss of daylight / sunlight</li> </ul>	<ul style="list-style-type: none"> <li>Building Regs (fire safety, etc.)</li> </ul>
<ul style="list-style-type: none"> <li>Noise, dust, smells, vibrations</li> </ul>	<ul style="list-style-type: none"> <li>Land ownership / restrictive covenants</li> </ul>
<ul style="list-style-type: none"> <li>Pollution and contaminated land</li> </ul>	<ul style="list-style-type: none"> <li>Private access disputes</li> </ul>
<ul style="list-style-type: none"> <li>Highway safety, access, traffic and parking</li> </ul>	<ul style="list-style-type: none"> <li>Land ownership / restrictive covenants</li> </ul>
<ul style="list-style-type: none"> <li>Flood risk (coastal and fluvial)</li> </ul>	<ul style="list-style-type: none"> <li>Private issues between neighbours</li> </ul>
<ul style="list-style-type: none"> <li>Health and Safety</li> </ul>	<ul style="list-style-type: none"> <li>Applicants personal circumstances (unless exceptional case)</li> </ul>
<ul style="list-style-type: none"> <li>Heritage and Archaeology</li> </ul>	<ul style="list-style-type: none"> <li>Loss of trade / business competition (unless exceptional case)</li> </ul>
<ul style="list-style-type: none"> <li>Biodiversity and Geodiversity</li> </ul>	<ul style="list-style-type: none"> <li>Applicants personal circumstances (unless exceptional case)</li> </ul>
<ul style="list-style-type: none"> <li>Crime and the fear of crime</li> </ul>	
<ul style="list-style-type: none"> <li>Planning history or previous decisions made</li> </ul>	

(NB: These lists are not exhaustive and there may be cases where exceptional circumstances require a different approach)

# PLANNING COMMITTEE

13 March 2024



**Report of:** Assistant Director (Neighbourhood Services)

**Subject:** UPDATE ON CURRENT COMPLAINTS AND  
ENFORCEMENT ACTIONS

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## 1. PURPOSE OF REPORT

1.1 To update members with regard to complaints that have been received, investigations that have been completed and enforcement actions that have been taken. Investigations have commenced in response to the following complaints:

1. The change of use of a residential property in Kintra Road to an office.
2. Non-compliance with pre-commencement conditions at a residential development at Front Street, Hart Village.
3. Non-compliance with a condition requiring the removal of a temporary structure at a visitor attraction on Maritime Avenue.
4. The waterlogging of boundary walls and gardens at a residential development site at land at Wynyard Park Estate.
5. Running a campervan hire business at a residential property in Meadowsweet Road.
6. The use of a car park for second hand car sales at a former hotel at The Cliff.
7. Non-compliance with the approved floor plans at a licensed premises on Warrior Drive.
8. The display of an advertising sign on land at Coppice Lane.
9. The change of use to a public house of a former restaurant at Navigation Point.
10. The construction of an access road on land west of Tees Road.
11. The use of a garage as living accommodation at a garage site on Berwick Street.

12. The installation of a telegraph pole on land at Gulliver Road.
13. The felling of trees and non-compliance with conditions at a residential and educational property on Dalton Piercy Road.
14. The display of an advertising sign at the rear of a commercial premises at Fens Shopping Parade.
15. The installation of solar panels and timber cladding, the erection of a garden wall with timber fencing, the renewal of a garage roof, and widening of a garage opening and driveway at a residential property in Wilton Avenue.

1.2 Investigations have been completed as a result of the following complaints:

1. Non-compliance with conditions relating to external finishing materials at a residential development on land at Linden Grove. Enforcement action is not considered expedient in this case.
2. Non-compliance with condition requiring restoration of position of rear boundary at a householder development at Burns Close. Enforcement action is not considered expedient in this case.
3. The erection of a masonry sub-station in an unapproved location at a commercial premises at The Fish Quay. The masonry sub-station is now being erected in the approved location.
4. The excavation of foundations at a residential property in Manor Fields, Wynyard. The works involved the removal of previous unauthorised development and resulted in no breach of planning control.
5. The erection of a high timber fence at the front and side of a residential property in Harwich Grove. The high timber fence at the front and side has now been removed.
6. The display of an advertising sign on the side boundary fence of a residential property in Powlett Road. The advertising sign has now been removed.
7. Non-compliance with an archaeological written scheme of investigation at a residential development at Land adjacent Milbank Close, Hart. There is no breach of planning control in this case at this time.

1.3 No enforcement actions have been taken within this reporting period.

## 2. RECOMMENDATION

2.1 That Members note this report.

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**PLANNING COMMITTEE****13<sup>th</sup> March 2024**

**Report of:** Assistant Director – Preventative & Community Based Services

**Subject:** CONSERVATION AREA MANAGEMENT PLANS

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**1. PURPOSE OF REPORT**

1.1 This report is for information.

**2. PURPOSE OF REPORT**

2.1 The purpose of this report is to provide information on two Conservation Area Management Plans that have been developed with the support of funding from Historic England's Capacity Building Grant Scheme. The reports are completed in draft form. On the 26<sup>th</sup> January, Adult and Community Based Services Committee agreed to these being taken out to public consultation prior to finalising them.

**3. BACKGROUND**

3.1 There are eight conservation areas in the town, the focus of this work is Seaton Carew and the Headland. Understanding the character and significance of conservation areas is essential for managing change within them. Councils are required to formulate and publish proposals for the preservation and enhancement of conservations areas. They are also required to periodically review these proposals. These plans are normally presented in the form of a Conservation Area Appraisal and Management Plan (CAMP).

3.2 Headland and Seaton Carew Conservation Areas are considered to be at risk using the Historic England criteria to assess buildings at risk. Whilst having contrasting characteristics, one being a classic seaside resort with a focus on the commercial centre, and the other a more traditional coastal residential area with a rich heritage, they share similar challenges,

- Traditional details have been eroded over years of minor alterations which has slowly changed the characteristics of buildings and in some instances streetscapes.
- There are key vacant sites and buildings both within and alongside the area impacting on amenities and the wider environment.
- Both are ripe with opportunity which, despite efforts over a number of years, remains untapped.

- 3.3 Consultants Purcell were commissioned to prepare plans for Seaton Carew and the Headland. The development of the documents has provided an opportunity to,
- Review baseline data to understand the existing heritage and those alterations which are considered to be causing harm.
  - Assess the current townscape and identify opportunities for enhancement and development.
  - Develop design guidance to manage the loss of traditional detailing.
  - Carry out initial consultation with stakeholders and the community to gather information to assist in the development of the documents

#### **4. DRAFT DOCUMENTS**

- 4.1 The documents are now in a draft format. They are in four sections,

Part 1 defines and records the special interest of the conservation area.

Part 2 analyses the characteristics that make the area special, also referred to as ‘the Appraisal’.

Part 3 provides an analysis of the current issues and opportunities facing the conservation area. It then provides an overarching vision for the conservation area, recommendations to enhance the area, and guidance and design advice on how to manage change.

Part 4 contains further information for residents and developers on where to seek advice and help, a bibliography and glossary, and detailed plans of the area.

The documents will be circulated in a separate document, and due to their size and cost of printing, only a small number will be provided at the Committee Meeting.

- 4.2 The documents are positive in their tone. They provide a wealth of information on the history of each area in order to explain the development of these places. This is further built on when describing the special character of the area. Pallets of the materials used, which combine to create the townscape, are displayed in pages of photographs, alongside this is commentary on other aspects of the area which contributes to the uniqueness of each one.
- 4.3 The section on the management of the area sets out clear guidelines on works which will preserve and enhance the conservation areas. This includes guidance and advice on alterations to buildings and spaces for both private owners, for example changes to shop fronts or building extensions on houses, and on public land such as street furniture, footpaths and open spaces.

- 4.4 Individual sites which impact on the conservation area, providing opportunities for change are the focus of more detailed analysis, for example in the Headland there is a focus on the Friarage Manor House, in Seaton Carew consideration is given to the former Longscar site.
- 4.5 In considering the areas as a whole there are also recommendations for boundary changes, this includes proposal for both deletion of spaces and inclusion of others.
- 4.6 It is proposed that now the documents are in a draft format they are taken out to public consultation. This will be an opportunity for residents and stakeholders to review and comment on each one.
- 4.7 The format of the consultation would be the same as at the initial stages of this work. Drop in sessions for members of the public would be held in key locations within the area at varying times of the day to allow attendance. Further to this stakeholders would be approached directly for comment. In addition the documents would be made available on line alongside an opportunity to feed in comments this way.
- 4.8 Once the consultation closed the feedback would be consider and the documents amended where appropriate. They would be presented to Adult and Community Based Service Committee for approval and to this Committee for information. The documents will form part of the evidence base that is used when considering planning applications within these conservation areas. Relevant weight would be placed on each one when making planning decisions.

## 5. OTHER CONSIDERATIONS/IMPLICATIONS

<b>RISK IMPLICATIONS</b>	<p>Both the Headland and Seaton Carew Conservation Areas are identified as being 'At Risk' on the annual survey published by Historic England. This work supports other policy initiatives in creating a framework upon which positive enhancements can be made in order to address the issues that exist at the moment.</p> <p>The Planning Committee have highlighted the need for guidance for those wishing to carry out alterations on buildings in conservation areas, particularly residential properties. This work supports that request.</p>
<b>FINANCIAL CONSIDERATIONS</b>	Historic England provided grant assistance of £20,000 to support the work. This was match by £10,000 which was taken from sources across Adult Services Department.
<b>LEGAL CONSIDERATIONS</b>	The local authority has a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990

	Section 71(1) to 'formulate and publish proposals for the preservation and enhancement of any parts of their area which are conservation areas'. These works are discharging that duty.
<b>CHILD AND FAMILY POVERTY</b>	There are no issues.
<b>EQUALITY AND DIVERSITY CONSIDERATIONS</b>	There are no issues.
<b>STAFF CONSIDERATIONS</b>	The project was overseen by the Head of Service (Heritage and Open Spaces) with the grant assistance provided used to bring in the consultants Purcell to compile the CAMPs.
<b>ASSET MANAGEMENT CONSIDERATIONS</b>	Both areas include significant buildings in the council's ownership and more widely the public realm. This work supports the management and enhancement of the environment in both places.
<b>ENVIRONMENT, SUSTAINABILITY AND CLIMATE CHANGE CONSIDERATIONS</b>	The documents consider the issue of sustainability and climate change and provide suitable guidance and commentary of the impact of this on the conservation areas.
<b>CONSULTATION</b>	<p>Throughout the development of the documents an internal officer group was involved feeding in thoughts and comments.</p> <p>Further to this in the Headland a small steering group of stakeholders was involved in the process, this included,</p> <ul style="list-style-type: none"> <li>• Headland Parish Council</li> <li>• Hartlepool Civic Society</li> <li>• Heugh Battery Museum</li> <li>• Thirteen Group</li> </ul> <p>This was an opportunity for these representatives to be involved in the initial development stage and put forward issues and comments on the area.</p> <p>At the beginning of the process two public consultation events were held in the areas, one in Seaton Carew Library and the other at the Heugh Battery Museum. The events were advertised so individuals from either area could attend rather than be restricted to those in their area. Alongside this consultation was carried out on line. The purpose of this consultation was to gather initial thoughts which could be used to shape the document.</p>

**6. RECOMMENDATIONS**

- 6.1 That members note the report.

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## PLANNING COMMITTEE

13<sup>th</sup> March 2024



**Report of:** Assistant Director – Neighbourhood Services

**Subject:** APPEAL AT LAND AT HART MOOR FARM, NORTH OF THE A179  
APPEAL REF: APP/H0724/W/23/3330856  
Erection of a synchronous condenser with ancillary infrastructure and associated works including access and landscaping.

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### 1. PURPOSE OF REPORT

- 1.1 To advise members of the outcome of a planning appeal that has been determined in respect of the erection of a synchronous condenser with ancillary infrastructure and associated works including access and landscaping on agricultural land at Hart Moor Farm, north of the A179.
- 1.2 The appeal was allowed. A copy of the Inspector's decision (dated 06/12/2023) is attached. (**Appendix 1**).

### 2. RECOMMENDATIONS

- 2.1 That Members note the outcome of these appeals.

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## Appendix 1.



## Appeal Decision

Site visit made on 18 December 2023

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

**Appeal Ref: APP/H0724/W/23/3330856**

**Agricultural land at Hart Moor Farm, north of the A179**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Conrad Energy against the decision of Hartlepool Borough Council.
- The application Ref H/2022/0302, dated 29 July 2022, was refused by notice dated 19 April 2023.
- The development proposed is erection of a synchronous condenser with ancillary infrastructure and associated works including access and landscaping.

### Decision

1. The appeal is allowed and planning permission is granted for erection of a synchronous condenser with ancillary infrastructure and associated works including access and landscaping at agricultural land at Hart Moor Farm, north of the A179 in accordance with the terms of the application, Ref H/2022/0302, dated 29 July 2022, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further comments on this latest version. I am satisfied no party would be prejudiced by my taking this approach.
3. Since this appeal was lodged appeal decisions<sup>1</sup> have been issued in respect of similar energy related development in the vicinity of the appeal site. One of the decisions relates to land near Hart Moor Farm adjacent to the appeal site and was for the construction of underground electricity cables, substation and associated infrastructure to connect to Hartmoor Substation and was allowed on 6 December 2023. The main parties have had the opportunity to comment on the appeal decisions and I have taken the Inspector's findings into account in my decision. Nonetheless I have reached my own findings based on the circumstances of this appeal scheme.

<sup>1</sup> Appeal Decisions: APP/K1355/W/22/3299829, APP/K1355/W/22/3299836, APP/H0724/W/22/3299842, APP/H0724/W/22/3299848, APP/H0724/W/22/3299857

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### Main Issues

4. The main issues are:

- whether the proposal constitutes an acceptable use outside the limits to development; and
- the effect of the proposal on the character and appearance of the area.

### Reasons

#### *Development outside the limits to development*

5. Policy RUR1 of the Hartlepool Local Plan (2018) (HLP) and Policy GEN1 of the Hartlepool Rural Neighbourhood Plan (2019) (HRNP) set out the Council's approach for development in its rural areas, considered to be the countryside and defined as land beyond the limits to development. It is not disputed that the proposal would be outside of the limits of development and would therefore be in the countryside.
6. While development outside the development limits is to be strictly controlled, Policies RUR1 and GEN1 outline the types of development that may be acceptable. Policy RUR1 supports development that contributes to the rural economy where it is considered necessary for the efficient or the continued viable operation of appropriate land-based businesses and Policy GEN1 is supportive of essential public infrastructure.
7. The proposal would create some local employment opportunities during the construction and operation phases, however it would not necessarily contribute to the rural economy. In coming to this conclusion, I have had regard to Policy EC1 of the HLP which provides an understanding of what is meant by development of the rural economy.
8. There is a need for the proposal to provide stability within the energy network and to support the growth in renewable energy production in the wider area. There is also a locational need for the proposal to be sited near to the Hartmoor Substation and as such, within the countryside. Nonetheless, based on the evidence before me it has not been clearly demonstrated that the proposal is essential public infrastructure as required by development plan policy. The principle of the proposal outside of the development limits does not therefore attract policy support.
9. There may well be other proposals for similar development in countryside locations that have been granted planning permission, however the examples provided are in different parts of the country and I do not have precise details regarding the context of the other schemes. The circumstances are likely to be different and are not directly comparable. The other examples do not, therefore, lead me away from my above findings.
10. Accordingly, the proposal does not constitute an acceptable use outside the limits to development, in conflict with Policy RUR1 of the HLP and Policy GEN1 of the HRNP.

#### *Character and appearance*

11. Situated to the north of the A179 the appeal site comprises an area of agricultural land, located in between an area of woodland and an access track.

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Relatively tall tree planting and hedging marks the appeal site's boundary with the A179 which is part of a dense tree belt running along most of the A179. The surrounding area comprises agricultural land that is predominantly open, however there are a number of man-made elements in the area in the form of large pylons and telegraph poles crossing the landscape which results in the area having a semi-rural character. The Hartmoor Substation is located nearby on the opposite side of the A179 to the south of the appeal site.

12. The Strategic Gap Assessment (2017) (SGA) identifies the appeal site as falling within the Undulating Semi-Rural Farmland character area, assessed as having a high landscape value with a medium-high landscape visual sensitivity. While the wider area may provide a natural division between urban areas and outlying settlements, the appeal site itself has not been identified as falling within an important strategic gap within the SGA. Moreover, the scheme is not of such a scale that it would undermine the role and function of the landscape in this regard.
13. The A179 is a key route into Hartlepool and generally the landscape is visually attractive to the north, particularly as part of scenic views of the coastline beyond. Nonetheless, the SGA character area covers a widespread area with localised variations in quality and character. The landscape character in the area surrounding the appeal site is influenced by a number of visual detractors, associated with overhead electricity pylons and transmissions lines, and the visual and audible presence of traffic of the A19 and A179.
14. The Council contend that the landscape north of the A179 provides the best public scenic views in the locality, however I share the view of the Inspector in the recent appeal decision that owing to the absence of any distinctive features the landscape does not exhibit a strong aesthetic quality. The Inspector found the local landscape to more closely align with the definition in the SGA for a landscape of moderate value with a medium sensitivity. Having visited the site, I see no clear reason to depart from my colleague's findings on this matter.
15. The proposed built development would be relatively compact with a modest footprint. The main generator building would be similar in appearance to an agricultural barn and painted a non-reflective recessive colour to help assimilate the proposal into the landscape. The compound fence would largely be screened by vegetation and would be painted an appropriate colour to mitigate its visual effects. Given the proposed use it is not possible to re-use existing buildings and/or materials as indicated in criterion 3 of Policy RUR1. When viewed amongst existing farm buildings such as those at the nearby Hart Moor Farm, the proposed scheme would not be out of scale or read as overly industrial in nature. The proposal would therefore accord with criterion 6 of Policy RUR1.
16. The submitted Landscape and Visual Impact Appraisal (LVIA) establishes a visual envelope covering the appeal site and surrounding area, with viewpoints and sensitive receptor locations. Having considered the photomontages and from my observations, I am satisfied that the selected viewpoints in it are representative of the effects of the proposal and I agree with the conclusions of the LVIA that overall, the proposal would not give rise to any significant adverse landscape or visual effects.
17. Viewpoint 2 in the LVIA and the corresponding photomontage show the proposal would be visible, at relatively close range, from the access road to

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Hart Moor Farm. Nonetheless, over time the proposed landscaping would help to screen the development from this private access track. Similarly, while not public rights of way or well used, any glimpsed views of the proposal from the numerous permissive footpaths to the north of the appeal site would be seen within the context of the pylons and telegraph poles crossing the landscape, the infrastructure to the south of the A179 and would not be seen in conjunction with any scenic views of the coast.

18. Viewpoints 4, 5 and 9 show that the proposal would be largely screened by existing vegetation and the undulating topography. While I have no reason to doubt the local value of the landscape, views of the scheme from the permissive paths and woodland areas to the north and east would generally be at some distance, reducing the impact of the proposal. Any views from the footpaths within the woodland to the north of the site would also be heavily filtered by trees and the buildings at Hart Moor Farm. Once the landscaping scheme has established, given the agricultural appearance of the main building and the distance between the majority of vantage points and the proposed development, it would not draw the eye. While views from the permissive paths in the woodland to the west would be at closer range they would largely be filtered by the dense woodland.
19. When travelling along the A179 in both directions views of the proposal would generally be screened by existing mature vegetation, undulating topography and the proposed landscaping. Similarly, from the slip road off the southbound A19 the proposal would largely be hidden from view by existing woodland. Views from these vantage points, in any event, would be in passing rather than as a particular focal point. As such, there would not be any significant interference with any long-distance views of the coast from the A19 and A179.
20. Owing to the presence of existing established vegetation I did not observe any clear views of the appeal site along Palace Row when leaving the village of Hart and joining the A179. Furthermore, as shown in the LVIA the village does not fall within the zone of theoretical visibility and given the distance between the appeal site and the village the proposal would have minimal visual effects.
21. Concerns have been raised that the proposed lighting would add to light pollution in what is described as a darker area between the A19 and main urban area. However, the proposed lighting would consist of motion sensitive lights designed to be downward facing to minimise light spill and there is no detailed evidence that significant detrimental levels of light spill would occur. As such, the proposal would not have a significantly detrimental effect by way of light pollution or visual intrusion and accords with criterion 4 of Policy RUR1.
22. The Hartlepool Borough Council Landscape Assessment (2000) sets out that the Undulating Farmland character area that the appeal site is located within has a pleasing sense of scale and enclosure created by hedgerow boundaries and varied field patterns. The more recent SGA identifies the layout and scale of the Undulating Semi-Rural Farmland character area to include widespread managed farmland fields that vary in size. In time, the proposed additional landscaping along the site's eastern and southern boundaries would add to the variety of field sizes, enhancing the distinctiveness of the immediate area, in accordance with criterion 5 of Policy RUR1.
23. The landscape to the north of the A179 displays different characteristics to the landscape to the south. However, while it is largely free of development, it is

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not completely open and there are several detracting elements. Moreover, recently approved schemes would introduce energy related development to the wider area, as shown on the Hartmoor Site Overview Plan. Given the limited detrimental effects of the proposal on the character and appearance of the area, even considering the approved schemes the proposal would not cause significant harm to the landscape in this location. For the reasons set out above, the area would retain its semi-rural character and would not be seen as explicitly urbanised.

24. The Council have concerns that allowing the scheme would set an undesirable precedent which would make it difficult to resist similar energy related development. However, it is unlikely that there are similar sites in the wider landscape that display the same site-specific circumstances as the appeal site. As such I do not find that there is a reasonable prospect of similar development being repeated nearby, to the extent that the cumulative effect would be significantly detrimental to the character and appearance of the area.
25. To conclude on this main issue, while I have found that the proposal would accord with the requirements of criteria 3, 4, 5 and 6 of Policy RUR1, it would, nevertheless, cause some limited, localised harm to the character and appearance of the area. The identified policy compliance does not negate this harm. Therefore, the proposal is in conflict with criteria 9 of Policy RUR1 of the HLP. It also conflicts with Policy QP4 of the HLP and Policies GEN1 and GEN2 of the HRNP. These policies, amongst other things, require developments to not have a detrimental impact on landscape character, and to respect the character of the local countryside and reinforce the character of the rural area.

#### **Other Matters**

##### *Renewable and Low Carbon Energy*

26. The Climate Change Act 2008 (as amended) commits the UK to 'net zero' emissions by 2050. To achieve this the Government is seeking to reduce reliance on energy production from fossil fuels and boost energy generated from renewable sources. The Overarching National Planning Statement for Energy EN-1 (NPS EN-1) emphasises the need to transform the energy system and tackle emissions while continuing to ensure secure and reliable supply. It recognises that to ensure supplies remain reliable and to keep energy affordable there is a need to reduce the amount of energy wasted.
27. Renewable energy is less stable than energy from fossil fuels resulting in greater fluctuations of power supply entering the grid network and potential wasted energy as a result. The proposal would provide stability to the electricity grid, regulating the frequency and voltage of the network and reducing wasted energy. It is in response to National Grid's Stability Pathfinders Programme which has identified Hartmoor Substation as having capacity to facilitate the proposed infrastructure.
28. The principle of the proposal accords with Policy NE2 of the HRNP which is supportive of ancillary infrastructure associated with renewable and low carbon energy. Policy CC3 of the HLP is primarily concerned with renewable and low carbon energy generation. It is not disputed that the appeal scheme does not, in itself, generate renewable energy. Policy CC3 has not therefore been determinative in my consideration of this appeal.

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29. The proposal would align with Section 14 of the Framework which sets out that the planning system should support the transition to a low carbon future in a changing climate and support renewable and low carbon energy and associated infrastructure. In providing resilience to the grid and preventing wasted energy the scheme would also be in line with the NPS EN-1. I also acknowledge the numerous national documents that set out the Government's approach to energy security and achieving net zero emissions which highlight the importance of energy efficiency and energy management.
30. There is clear national support for maintaining essential resilience and reliability in energy supply and at the local level the Council recognise that planning has a major role to play in helping to reduce the impacts of climate change and expressly supports infrastructure associated with renewable and low carbon energy through development plan policy. The proposal would make a positive contribution to these objectives which is a clear benefit of the scheme.

#### *Location*

31. I have been presented with no firm evidence to demonstrate that the proposed use would be better suited to a brownfield site or industrial area. While it has been suggested that the proposal would be better located to the south of the A179 next to the existing substation, much of the land surrounding the substation is already used for other development and the appeal site is the most appropriate land available for the scheme. There is also no wording in any development plan policy that requires such infrastructure development to undertake a site selection process. Given the proposed use of the appeal scheme it is not possible for it to be located in or near to villages as indicated in criterion 2 of Policy RUR1.

#### *Agricultural land*

32. The appeal site includes land that is classed as best and most versatile agricultural land. While the proposal would result in the loss of agricultural land, this would be for a temporary period and the site would be reinstated to agricultural land following decommissioning which can be secured through an appropriately worded planning condition. Criterion 10 of Policy RUR1 requires proposals in the countryside to avoid areas of agricultural land, however the appeal site is the most appropriate location to meet the locational requirements of the proposal. As such the use of best of and most versatile agricultural land cannot be avoided in the specific circumstances of this case.

#### *Ecology and nature conservation*

33. It is suggested that the proposal would have a detrimental effect on local wildlife, however the Council's ecologist raised no objection and was satisfied with the submitted preliminary ecological assessment. There is no detailed evidence to indicate that I should come to a different view. In any event, planning conditions could be imposed to secure appropriate protection for breeding birds, brown hare and badger.

#### *Highways*

34. There are concerns that the proposal would compromise the strategy set out in Policy INF2 of the HLP to widen the A179. However, the appeal site is set back from the road by existing vegetation, and there is no clear evidence to suggest that sufficient space for any potential dualing of the road could not be

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achieved. Furthermore, there was no objection from the Council's traffic and transport officer on this matter. It is not disputed that appropriate access can be achieved at the site with no detrimental impact on highway safety and therefore the proposal accords with criterion 7 of Policy RUR1.

#### **Safety**

35. The potential safety implications, including potential fire risks arising from the scheme have been raised as a concern. However, neither the Cleveland Fire Brigade nor the Council's public protection officer objected to the proposal. I have no clear reason to disagree with their conclusions and that public safety would not be at risk.

#### **Planning Balance**

36. The proposal would not constitute an acceptable use outside the limits to development. I have found that the proposed development would cause some limited, localised harm to the character and appearance of the area. The level of harm is limited due to existing screening, topography and the mitigation provided by the proposed landscaping. I give the identified policy conflict moderate weight. The benefits of the proposal, as identified above and relating to the efficient use of energy and the positive contribution the scheme would make to energy resilience and stability during the transition to renewable and low carbon energy are significant. I have carefully considered the risk to these benefits being delivered, should planning permission for this scheme be refused.
37. In this case, the very important contribution the proposed infrastructure would make to the efficient management of energy supply outweigh my findings that the proposal does not constitute an acceptable use outside the limits to development and the limited harm to the character and appearance of the area. As such, even with the identified conflict with development plan policies, there are particularly important and persuasive material considerations that indicate that this development should be approved.

#### **Conditions**

38. The conditions suggested by the Council have been considered and amended as necessary to ensure compliance with the Planning Practice Guidance and the Framework. It is necessary to impose a condition identifying the approved plans for clarity. I impose a condition related to the fact that planning permission is granted for a temporary period of 40 years to ensure that this is enforceable. A condition relating to decommissioning and restoration works is also necessary in the interests of protecting the character and appearance of the area.
39. A condition is imposed in relation to implementing the protection measures for the retained trees identified in the arboricultural method statement to protect the character and appearance of the area. This is required before the commencement of development to ensure damage is not caused to trees during the early stages of work. To protect the character and appearance of the area it is also necessary to impose a condition to secure details of materials, a condition to secure the submission of a hard landscaping scheme and a condition to ensure the implementation and the long-term maintenance of the approved landscaping scheme.

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40. A pre-commencement condition is necessary to secure proper drainage and to manage the risk of flooding and given the uneven ground levels at the appeal site I also impose a pre-commencement condition so that suitable finished floor levels can be achieved. The submission and approval of a Construction Traffic Management Plan is required in the interest of highway safety before the commencement of development as the details relate to the construction phase. I also impose conditions in relation to remediation and contamination and construction hours to protect the living conditions of local residents.
41. In the interest of protecting biodiversity, conditions are necessary to prevent any habitat disturbance to nesting birds during the clearance of the site and to secure the implementation of measures to provide a means of escape for mammals that may become trapped during the construction phase.

#### **Conclusion**

42. For the above reasons, the material considerations indicate that this decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal is allowed.

*F Harrison*

INSPECTOR

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### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall cease on or before the expiry of a 40 year period from the date that the development is first brought into use.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: HART-SYNCO-LP-002 LOCATION PLAN, HART-SYNCO-PP-003 PROPOSED PLAN, HART-SYNCO-SEL-RP-006 INDICATIVE SECTIONAL ELEVATIONS PROPOSED ROOF PLAN, HART-SYNCO-BP-008 BLOCK PLAN, HART-SYNCO-EL-007 INDICATIVE ELEVATIONS AND ROOF PLAN and Dwg 03 Rev A Landscape Mitigation.
- 4) Prior to the commencement of development, a sustainable drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the standards detailed in the Tees Valley Sustainable Drainage Systems (SuDs) Guidance Design Guide and Local Standards (or any subsequent update or replacement for that document). The approved drainage scheme shall be implemented in accordance with the approved design prior to completion of the development and maintained and managed thereafter.
- 5) Prior to the commencement of development, details of the existing and proposed levels of the site including the finished floor levels of the generator building to be erected and any proposed mounding and/or earth retention measures shall be submitted to and approved in writing by the local planning authority. The development thereafter shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority, in consultation with National Highways. The CTMP shall be comprehensive and shall address the following matters:
  - Keeping pedestrians and vehicles apart;
  - Minimising vehicle movements;
  - Consideration of people on site;
  - Vehicles being restricted to turning left out of the site;
  - Visibility; and
  - Temporary signage and instructions.

The approved CTMP shall be adhered to throughout the construction period.
- 7) No site clearance works or development shall commence until the trees to be retained adjacent at the site have been enclosed with temporary protective fencing in accordance with the submitted Arboricultural Report dated July 2022 by Tim Moya Associates and in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction. Recommendations' (or equivalent if replaced) and shall be retained for the duration of the development process. Development shall be carried out in strict accordance with the Arboricultural Method Statement as shown on the Proposed Layout and Tree Works Plan (Drawing No 220674-P-11) at Appendix A of the Arboricultural Report.

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- 8) Trees shall only be cleared outside of the bird nesting season (1 March to 31 August inclusive), unless, before the clearance commences, a report has been submitted to and approved in writing by the local planning authority to establish whether such trees are utilised for bird nesting. Should the report reveal the presence of any nesting species, then no development shall take place during the period specified above unless a mitigation strategy has first been submitted to and approved in writing by the local planning authority which provides for the protection of nesting birds during the period of works on site. The mitigation strategy shall then be implemented as agreed.
- 9) Prior to above ground construction, final details of the external finishes to the development hereby approved shall be submitted to and approved by the local planning authority, samples (or high quality photographs) of the desired materials being provided for this purpose. The approved finishes shall be implemented and retained thereafter.
- 10) Demolition or construction works shall only take place between the hours of 8am to 6pm on Mondays to Fridays, between 9am and 1pm on Saturdays and they shall not take place at any time on Sundays or on Bank Holidays.
- 11) Any excavations left open overnight during the construction of the approved development shall have a means of escape for mammals that may become trapped, in the form of a ramp at least 300 millimetres in width and angled no greater than 45 degrees.
- 12) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how this contamination shall be dealt with. The remediation strategy shall be carried out as approved before the development is resumed or continued. Following completion of any remediation measure a validation report must be submitted to and approved in writing by the local planning authority. The program of monitoring and maintenance set out in the validation report shall be undertaken in accordance with the approved details.
- 13) Prior to the laying of any hard surfaces, a scheme of hard landscaping and surface finishes shall be submitted to and agreed in writing by the local planning authority. This shall include all external finishing materials, finished levels, and all construction details, confirming materials, colours and finishes. Permeable surfacing shall be employed for hardstanding areas where possible to provide infiltration and additional attenuation storage. The agreed scheme shall be implemented prior to the development hereby permitted being first brought into use.
- 14) All planting, seeding or turfing comprised in the approved details of landscaping shown on Dwg 03 Rev A Landscape Mitigation shall be carried out in the first planting and seeding seasons following the completion of the development or first use of the development, whichever is sooner. Thereafter the landscaping hereby approved shall be maintained in accordance with the agreed scheme, for the lifetime of the development hereby approved. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die or become seriously damaged or diseased shall be replaced

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within the next planting season with others of the same size and species, unless the local planning authority gives written consent to any variation.

- 15) A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the local planning authority not later than 40 years from the date that the development is first brought into use. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.

**\*\*\*End of Conditions\*\*\***