

PLANNING COMMITTEE

AGENDA



Wednesday 9 October 2024

at 5.00 pm

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

MEMBERS OF PLANNING COMMITTEE:

Councillors Boddy, Feeney, Jorgeson, Little, Martin-Wells, Oliver, Scarborough, Sharp, Thompson, Young and Vacancy.

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 14th August 2024

4. ITEMS REQUIRING DECISION

4.1 Planning Applications – *Assistant Director (Economic Growth and Regeneration)*

1. H/2024/0196 Storage Land, Tones Workshops, Oxford Road (page 1)
2. H/2024 0192 Former Britmag Sites C and D, Old Cemetery Road (page 11)

5. ITEMS FOR INFORMATION

- 5.1 Planning Appeal at 91 Elwick Road, Hartlepool – *Assistant Director, Neighbourhood Services*
- 5.2 Enforcement Notice appeal at The Bungalow, Low Throston House, Netherby Gate, Hartlepool - *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.

- 5.3 Planning Appeal at land North Duchy Homes, Wynyard, Billingham - *Assistant Director, Neighbourhood Services*

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

7. 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.

FOR INFORMATION

Date of next meeting – Wednesday 6 November at 10.00am in the Civic Centre, Hartlepool



PLANNING COMMITTEE

MINUTES AND DECISION RECORD

14 AUGUST 2024

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

Present:

Councillor Tom Feeney (In the Chair)

Councillors: Moss Boddy (Vice-Chair), Michael Jorgeson, Sue Little, Karen Oliver, Martin Scarborough, Carole Thompson and Mike Young.

Officers: Daniel James, Planning (DC) Team Leader
Stephanie Bell, Senior Planning Officer
Kieran Campbell, Senior Planning Officer
Sarah Scarr, Head of Service for Heritage and Open Spaces
Helen Smith, Planning Policy Team Leader
Peter Frost, Highways, Traffic and Transport Team Leader
Zoe Craig, Environmental Health Manager (Environmental Protection)
Umi Filby, Legal Adviser
Denise Wimpenny, Principal Democratic Services Officer

22. Apologies for Absence

Councillor Andrew Martin-Wells

23. Declarations of interest by members

None.

24. Confirmation of the minutes of the meeting held on 17 July 2024

Confirmed subject to the following amendment:-

Page 9, Minute 16 – that reference to footprint be reflected in the minutes and the following be added to the minutes to read as follows:-

A Member expressed concern that the overall footprint was much larger than the original footprint.

25. **Planning Application - H/2023/0273 - Land West of North House, Brenda Road** *(Assistant Director, Neighbourhood Services)*

Number: H/2023/0273

Applicant: SAYSER DEVELOPMENTS LIMITED ST NICHOLAS BUILDING ST NICHOLAS STREET NEWCASTLE UPON TYNE

Agent: LICHFIELDS MR NEIL WESTWICK THE ST NICHOLAS BUILDING ST NICHOLAS STREET NEWCASTLE UPON TYNE

Date received: 15/11/2023

Development: Outline planning application with all matters reserved except for access for the demolition of existing buildings and outline planning permission for up to 55no. residential dwellings (use class C3), associated infrastructure and landscaping

Location: LAND WEST OF NORTH HOUSE BRENDA ROAD HARTLEPOOL

The Senior Planning Officer outlined the application and referred Members to additional information which had been tabled to reflect the following minor alterations to the conditions:-

- Updated plan in condition 3 (approved plans)
- Corrected typographical errors in conditions 9 (surface water and 13 (CEMP biodiversity)
- Updated wording of condition 17 (renewables to allow demolition)

The officer recommendation was to approve the application subject to the completion of the s106 legal agreement to secure appropriate planning obligations and financial contributions.

The agent representing the applicant was present at the meeting and addressed the Committee seeking support of the application. In response to a Member query as to whether the comments of the police in relation to provision of security had been considered, it was reported that given the application was presently at the outline stage, there would be an opportunity to consider this at a later stage through the required reserved matters application. A question on sustainability was raised by a member and

whether there were any plans for solar panels or insulation. It was confirmed that there was a condition to secure this.

The recommendations set out in the report were moved by Councillor Boddy and seconded by Councillor Young.

In accordance with procedure rules, a recorded vote was taken.

Those for – Councillors Moss Boddy, Tom Feeney, Michael Jorgeson, Sue Little, Karen Oliver, Martin Scarborough, Carole Thompson and Mike Young.

Those against – None

Those abstaining – None.

The application was, thereby, approved.

Decision

Minded to APPROVE subject to a legal agreement under S106 of the Planning Act subject to the completion of a S106 legal agreement to secure 18% on site affordable housing provision; financial contributions toward HRA mitigation (£13,750) for indirect adverse impacts on SPA (and Ramsar Site) feature birds through recreational disturbance, compensation for the loss of onsite nesting gull habitat (£75,000), Primary Education (£2,957.33 per dwelling), Secondary Education (£1,931.97 per dwelling), Green Infrastructure (£250 per dwelling), Built sports facilities (£250 per dwelling), Play facilities (£250 per dwelling), Playing pitches (£239.29 per dwelling), Tennis courts (£57.02 per dwelling), Bowling greens (£4.97 per dwelling), Primary Care Network (£483 per dwelling), the provision, maintenance and long term management of on-site landscaping and open space; and maintenance and long term management of surface water drainage; subject to the identified planning conditions below (including updated/tailed conditions 3, 9, 13 and 17);

CONDITIONS AND REASONS

1. Application for the approval of the reserved matters referred to below must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:
 - (a) the expiration of five years from the date of this permission; or
 - (b) the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
 To clarify the period for which the permission is valid.
2. Approval of the details of the appearance, layout and scale of the building(s) and the landscaping of the site (hereinafter called the

""reserved matters"")) shall be obtained in writing from the Local Planning Authority.

In order to ensure these details are satisfactory.

3. The development hereby approved shall be carried out in accordance with the following approved plan(s) and details;
Dwg. No. 1733-TOP 001 Rev B (Location Plan) received by the Local Planning Authority on 5th August 2024.
For the avoidance of doubt.
4. The total quantum of development hereby approved shall not exceed 55no. dwellinghouses (C3 use class).
To ensure a satisfactory form of development and for the avoidance of doubt.
5. The access (and associated visibility splays and footway connections) to the development hereby approved shall be completed in accordance with Dwg. No. JN2650-DWG-0001 (Proposed Site Access Arrangement, included as Appendix B in the Transport Assessment by SAJ Transport Consultants, reference JN2650-Rep-0002.5 Transport Assessment, dated January 2024, received by the Local Planning Authority on 31st January 2024) prior to the first occupation of the dwellinghouses hereby approved unless an alternative timescale is otherwise agreed in writing with the Local Planning Authority.
To ensure a satisfactory form of development and in the interests of highway safety.
6. Notwithstanding the submitted details and prior to the commencement of development (including demolition), details of the existing and proposed site levels of the application site (including any proposed mounding and or associated earth retention measures) and finished floor levels of the hereby permitted development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details.
To ensure that the development safeguards the visual amenity of the area and the living conditions of the neighbouring residents.
7. Notwithstanding the submitted information, no development (including demolition) 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 and urban creep, 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 drainage system shall be implemented in accordance with the approved detailed design prior to 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.
8. Development shall not commence until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.
To prevent the increased risk of flooding from any sources in accordance with the NPPF.
 9. Prior to the commencement of development, a scheme to identify any dwellings requiring flood mitigation measures (to include the raising of finished floor levels), shall be first submitted to and agreed in writing with the Local Planning Authority. The scheme shall be in accordance with the mitigation measures recommended within section 8.0 of the submitted Flood Risk Assessment and Drainage Strategy (Reference RWO/FRADS/22163 Version 2 by RWO Group, dated January 2024, date received by the Local Planning Authority 31st January 2024). The agreed mitigation measures shall thereafter be fully implemented prior to occupation or completion (whichever is sooner) of the identified dwellings hereby approved. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
To prevent the increased risk of flooding from any sources in accordance with the NPPF.
 10. Prior to the commencement of the development hereby approved, a scheme shall be first submitted and approved in writing by the Local Planning Authority to detail how the existing southern site access point (onto Brenda Road) shall be blocked up and made good including the provision/reinstatement of a footway and verge to link into the existing footway on the western side of Brenda Road. Thereafter the works to the existing access (to be blocked off) shall be completed prior to the first occupation or completion (whichever is sooner) of any of the dwelling houses unless an alternative timescale is otherwise agreed in writing with the Local Planning Authority.
To enable the Local Planning Authority to control details and in the interests of highway safety.
 11. The development hereby approved shall be carried out having regard to the following:
 1. Site Characterisation
An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - a. human health,
 - b. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - c. adjoining land,
 - d. groundwaters and surface waters,
 - e. ecological systems,
 - f. archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Land Contamination Risk Management procedures.

2. Submission of Remediation Scheme

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

3. Implementation of Approved Remediation Scheme

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

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

4. Reporting of Unexpected Contamination

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

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

5. Long Term Monitoring and Maintenance

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

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

This must be conducted in accordance with DEFRA and the Environment Agency's Land Contamination Risk Management procedures.

6. Extensions and other Development Affecting Dwellings.

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

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

12. No development (including demolition) 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 Statutory Biodiversity Metric (contained within the document entitled Biodiversity Net Gain Assessment prepared by E3 Ecology, document reference Project Number 7294, dated 12.02.24, received by the Local Planning Authority on 26th February 2024). The scheme shall provide a minimum of 0.32 Habitat Units and 0.52 Hedgerow Units of habitat creation and enhancement and include for 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 Statutory Biodiversity Metric (received by the Local Planning Authority on 26/02/2024).

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 paragraphs 8, 180 and 186 of the NPPF (2023) and Policy NE1 of the Hartlepool Local Plan (2018).

13. Prior to the commencement of the development hereby approved, a detailed Acoustic Report (to be submitted in accordance with the Noise Risk Assessment 10610.2 Revision B dated 31st July 2023, date received by the Local Planning Authority 09/08/2023), shall be first submitted to and approved in writing from the Local Planning Authority. The detailed Acoustic Report shall be carried out by a competent person, and shall detail the existing noise climate at the development site taking into consideration noise from nearby industrial and commercial units that can operate 24 hours a day and also road traffic. The Acoustic Report shall also establish any necessary sound attenuation measures required to reduce external noise levels on the building façades or to external amenity spaces to protect future residents from the transfer of sound from industrial/commercial premises and from road traffic noise. Where such mitigation measures are identified as being required, these shall be implemented prior to the occupation or completion of the identified dwellings (whichever is sooner) and a verification report to confirm that the requisite measures have been implemented shall be submitted to and agreed in writing with the Local Planning Authority prior to the occupation or completion (whichever is sooner) of the identified dwellings. Thereafter, the measures shall be retained for the lifetime of the development hereby approved. For the avoidance of doubt and in the interests of the amenity of future occupiers.
14. 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 E.1 'Potential Impacts, Mitigation, Compensation and Further Survey' of 'Ecological Impact Assessment & Bat Survey' by E3 Ecology (Project Number 7294, dated 12/02/24) received by the Local Planning Authority 19th February 2024. The CEMP (Biodiversity) shall include the following:
 - i.) the area containing pyramidal orchids shall be retained and protected during the construction period or translocated to a designated receptor area, in accordance with an updated survey;
 - ii) a buffer zone shall be included to protect the watercourse and shall be demarcated with heras style fencing, to comply with the Environment Agency's best practice guidance;

- iii) works shall be undertaken to a precautionary invasive species (cotoneaster) method statement;
 - iv) Light levels around newly installed roost locations and retained or created foraging/commuting areas shall be low level, below 2m in height, and low lux (below 1 lux 5m from the light source). Where security lights are required, these shall be of minimum practicable brightness, be set on a short timer and shall be motion sensitive only to larger objects;
 - v) Works shall be undertaken to a precautionary amphibian method statement;
 - vi) A pre-commencement check for nesting birds shall be undertaken by a suitably experienced ornithologist if vegetation clearance or building demolition is undertaken between March and August inclusive;
 - vii) Any excavations left open overnight will have a means of escape for wildlife that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°.
- Thereafter the approved CEMP shall be adhered to and implemented throughout the construction period and strictly in accordance with the approved details.

In the interests of avoiding or mitigating ecological harm.

15. Notwithstanding the submitted information and prior to the commencement of development (including demolition), a site specific Waste Audit which shall identify the amount and type of waste which is expected to be produced by the development, both during the construction phase and once it is in use, shall be submitted to and agreed in writing with the Local Planning Authority. The Waste Audit shall set out how this waste will be minimised and where it will be managed, in order to meet the strategic objective of driving waste management up the waste hierarchy, and shall include a timetable for implementation. Thereafter, the development shall be carried out in accordance with the agreed details.
To ensure a satisfactory form of development, in the interests of visual amenity and the amenities of neighbouring occupiers, 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.
16. Notwithstanding the submitted information and prior to any equipment, machinery or materials being brought onto the site for the purposes of the development hereby approved, the agreed scheme for the protection and retention of the retained trees (as identified in the Arboricultural Survey, Arboricultural Impact Assessment, Arboricultural Method Statement (Reference ARB/AE/3089, document dated January 2024), date received 01/02/2024 by the Local Planning Authority) shall be implemented on site (and thereafter retained until the completion of the development). Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees that are found to be dead, dying, severely

damaged or diseased as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season. In the interests of the health and appearance of the existing trees and the visual amenity of the area and surrounding area.

17. Prior to the commencement of the development hereby approved (excluding demolition), a report shall be first submitted to and approved in writing by the Local Planning Authority that demonstrates how the use of onsite renewable energy infrastructure will provide 10% of the developments predicted energy supply. The development shall thereafter be constructed/installed in line with the approved scheme prior to the residential occupation of the identified dwellings hereby approved.

In the interests of promoting sustainable development and in accordance with the provisions of Local Plan Policy QP7 and CC1.

18. No development (including demolition) shall take place until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CMP shall include:
- a) the routing of all HGVs movements associated with the construction phase;
 - b) parking for use during construction;
 - c) Details of measures to prevent mud from vehicles leaving the site including on site wheel-washing facilities;
 - d) Measures to control the emission of dust and dirt during construction, demolition/remediation and offsite dust/odour monitoring;
 - e) Details of any site construction office, compound, and ancillary facility buildings; and
 - f) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed, including an appropriate phone number.

Thereafter and following the written approval of the Local Planning Authority, the development shall be carried out solely in accordance with the approved CMP during the construction phase of the development hereby approved.

In the interests of the amenities of the area and highway safety.

19. The Reserved Matters application (referred to in conditions 2 and 3) shall be accompanied by a scheme for the provision, long term maintenance and management of all landscaping within the site. The landscaping scheme shall, where achievable, include the mitigation measures detailed in section E.1 'Potential Impacts, Mitigation, Compensation and Further Survey' of 'Ecological Impact Assessment & Bat Survey' by E3 Ecology (Project Number 7294, dated 12/02/24) received by the Local Planning Authority 19th February 2024 including the requirements for;
- i) wildflower grasslands and wildflower bulb planting;
 - ii) retention of as much higher value habitat as possible.
- The scheme shall specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in

accordance with the approved details and programme of works. Thereafter the agreed scheme (as part of the Reserved Matters) shall be provided in accordance with the approved details. All planting, seeding or turfing comprised in the approved details of landscaping within the curtilage of individual residential dwellings shall be carried out in the first planting season following the occupation or completion of each individual dwelling (whichever is sooner). All planting, seeding or turfing comprised in the approved details of landscaping for all other areas (out with the residential curtilages) including open space within the site shall be carried out in the first planting season following the occupation of the dwellings or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development hereby approved, 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 the amenities of future occupiers.

20. The Reserved Matters application (referred to in conditions 2 and 3) shall be accompanied by details of proposed hard landscaping and surface finishes (including the proposed car parking areas, footpaths and any other areas of hard standing to be created). This shall include all external finishing materials, finished levels, and all construction details confirming materials, colours, finishes and fixings. The scheme shall be completed in accordance with the agreed details prior to the occupation of the dwellings or completion of the development hereby approved, whichever is the sooner.

To enable the Local Planning Authority to control details of the proposed development, in the interests of the visual amenity of the area and highway safety.

21. The Reserved Matters application (referred to in conditions 2 and 3) shall be accompanied by details of all walls, fences and other means of boundary enclosure. The scheme shall be completed to the satisfaction of the Local Planning Authority in accordance with the agreed details prior to the first occupation of the dwellings or completion of the development hereby approved, whichever is the sooner.

In the interests of visual amenity and the amenity of the occupiers of the site.

22. The Reserved Matters application (referred to in conditions 2 and 3) shall be accompanied by details of storage of refuse. The scheme shall be completed to the satisfaction of the Local Planning Authority in accordance with the agreed details prior to the first occupation of the dwellings or completion of the development hereby approved, whichever is the sooner.

To ensure a satisfactory form of development.

23. Prior to the commencement of development above ground level, details of integral universal nesting bricks to be installed integral to each of the dwellings, including the exact location, specification and design, shall be submitted to and approved in writing by the Local

Planning Authority. Thereafter, the universal nesting bricks shall be installed strictly in accordance with the details so approved prior to the occupation or completion of the dwellings, whichever is the sooner, and shall be maintained for the lifetime of the development.

To provide an ecological enhancement for protected and priority species, in

accordance with paragraph 180 of the NPPF.

24. No dwellinghouse hereby approved shall be occupied until the existing 30mph speed limit on Brenda Road has been extended along Brenda Road to cover the extent of the site access hereby approved including the 43m sight lines (as required by condition 5 of this decision notice). To enable the Local Planning Authority to control details and in the interests of highway safety.
25. No dwellinghouse hereby approved shall be occupied until vehicular and pedestrian access connecting the proposed development to the public highway has been completed including appropriate amendments to the existing road markings at the proposed access (as detailed within condition 5) that shall be first submitted to and be agreed in writing with the Local Planning Authority.
In the interests of highway and pedestrian safety and in the interests of the visual amenity of the surrounding area.
26. No dwellinghouse hereby approved shall be occupied until low floor bus kerbs at the northbound and southbound bus stops as detailed in Figure 7 of the Transport Assessment (by SAJ, dated January 2024, date received by the Local Planning Authority on 31/01/2024), has been completed in accordance with a scheme to be first submitted to and agreed in writing with the Local Planning Authority.
In the interests of highway and pedestrian safety and in the interests of the visual amenity of the surrounding area.
27. No part of the residential development hereby approved shall be occupied until details of electric vehicle charging apparatus, including identifying the dwellings/location of the apparatus has been submitted and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of the identified dwellings, the agreed scheme shall be implemented on site.
In the interests of a satisfactory form of development and in accordance with the requirements of Local Plan Policy CC1.
28. No construction/building works or deliveries shall be carried out except between the hours of 08.00 am and 6.00 pm on Mondays to Fridays and between 09.00 am and 1.00 pm on Saturdays. There shall be no deliveries or construction activity including demolition on Sundays or on Bank Holidays.
To avoid excessive noise and disturbance to the occupants of nearby properties.
29. All tree works as detailed in the 'Arboricultural Survey, Arboricultural Impact Assessment, Arboricultural Method Statement' (Reference ARB/AE/3089, document dated January 2024), date received 01/02/2024 by the Local Planning Authority) shall comply with BS 3998:2010 'Tree work - Recommendations', paying particular regard to section 7 'Pruning and related work'.

In the interests of the health and appearance of the existing mature site trees.

Members considered representations in respect to this matter.

26. Planning Application - H/2022/0217 - Land to rear of 47-50 The Front, Seaton Carew *(Assistant Director, Neighbourhood Services)*

Number: H/2022/00217

Applicant: MRS SUSAN SCOTT THE FRONT HARTLEPOOL

Agent: ASP SERVICES LTD MR JONATHAN LOUGHREY 8 GRANGE ROAD HARTLEPOOL

Date received: 19/05/2023

Development: Application for the erection of a habitable chalet for permanent use within existing showman's yard to include alterations to the fence to the side.

Location: LAND TO THE REAR OF 47 - 50 THE FRONT HARTLEPOOL

It was moved by Councillor Boddy and seconded by Councillor Scarborough that this application be deferred for a site visit. In response to a request for clarification in relation to the reasons for the recommendation for a site visit, Councillor Boddy indicated that his concerns were around a potential fire risk and health and safety.

The vote was unanimously carried by a show of hands.

Decision

Deferred for a site visit.

27. Planning Application - H/2023/0439 – 70-71 The Front Seaton Carew *(Assistant Director, Neighbourhood Services)*

Number: H/2023/0439

Applicant: UNWIN GROUP THE FRONT HARTLEPOOL

Agent: COLLABORATIVE DESIGN LTD MR CHRIS SUTTON 65
ELMWOOD PARK COURT NEWCASTLE UPON TYNE

Date received: 21/02/2024

Development: Proposed replacement of the existing concrete roof tiles with clay roof tiles to main roof, proposed replacement of bay window to front with new 4-pane bay window (with opening mechanism to central pane windows), installation of 2no. awnings to front elevation, repair of existing windows and refurbishments to existing cast iron columns and beams to front.

Location: LAND TO THE REAR OF 47 - 50 THE FRONT
HARTLEPOOL

It was moved by Councillor Little and seconded by Councillor Jorgeson that this application be deferred for a site visit. It was reported that the reasons for the request were in relation to health and safety in terms of the location of the window.

The vote was unanimously carried by a show of hands.

Decision

Deferred for a site visit

28. Planning Application - H/2024/0137 – 13 Clifton Avenue-71 The Front Seaton Carew *(Assistant Director, Neighbourhood Services)*

Number: H/2024/0137

Applicant: MS SILVIA MARINA CARRILLO PEREZ CLIFTON
AVENUE HARTLEPOOL UNWIN GROUP THE FRONT
HARTLEPOOL

Agent: GAP DESIGN MR GRAEME PEARSON EDENSOR
COTTAGE 1 BLAISE GARDEN VILLAGE ELWICK ROAD
HARTLEPOOL

Date received: 30/05/2024

Development: Proposed change of use from part of existing residential dwelling to childminding business including erection of single storey lean to structure to rear of existing garage (to be converted to play area associated with proposed use).

Location: 13 CLIFTON AVENUE HARTLEPOOL LAND TO THE REAR OF 47 - 50 THE FRONT HARTLEPOOL

The Development Control Planning Team Leader outlined the application to the Committee and the reasons for recommending refusal of the application.

The MP for Hartlepool was present at the meeting and addressed the Committee on behalf of the applicant seeking support of the application. It was stated that it was common practice for childcare providers to operate from residential properties, examples of which were provided. It was considered that the proposals did not negatively impact on neighbouring properties and the concerns around highway safety and car parking were disputed, the reasons for which were outlined. Emphasis was placed upon the benefits of the application which included the need for urgent child care places in Hartlepool.

In response to questions from Members, the applicant addressed the issue of parking and indicated that drop offs and pick ups would be staggered. Clarification was provided in relation to staff parking arrangements, how potential noise issues from outdoor play would be addressed as well as details of the Ofsted registration process and business operational arrangements. Assurances were provided that staff parking and outdoor play would be carefully managed and would not have a detrimental impact on neighbouring properties.

An objector, who was in attendance at the meeting addressed the Committee on behalf of neighbouring residents in Clifton Avenue. The objector advised that concerns were mainly around parking issues due to lack of street parking on Clifton Avenue and that the proposals would exacerbate the problem. Concerns were also reported in relation to noise nuisance in terms of disturbance as a result of recurring pickups and drop offs and the impact on health and wellbeing of neighbouring residents, details of which were provided.

In response to clarification sought from a Member as to how she became aware of the proposals, the objector stated that a neighbour had shared a leaflet. The applicant responded to a further query raised from a Member in relation to business operating arrangements.

In general debate Members commented on the reasons for officer's recommending refusal, the outcome of previous applications of this type and the impact of an increase from 12 to 20 children. Officers responded to further issues raised which included clarification in terms of the options available to Members around enforcement action should they be minded to

refuse the application as well as clarifying that the planning permission would go with the application site property (and not the applicant) and therefore the impacts of the proposed use needed to be considered on the basis of the maximum operation of the development.

It was moved by Councillor Young and seconded by Councillor Little that the application be approved with planning conditions to be delegated to the Planning and Development Manager, in consultation with the Chair and Vice Chair of Planning Committee. Following clarification from both the Planning Team Leader and the Legal Adviser, Members advised that the reasons for approving the application were on the grounds that i) the proposal would not have unacceptable impact on the character and amenity of the area particularly as a result of other similar businesses operating in the area and; b) the proposal would not have an unacceptable impact on highway safety and car parking.

In response to clarification sought in relation to the voting process, the Legal Adviser advised that there was no requirement for an automatic vote on the officer recommendation.

In accordance with procedure rules, a recorded vote was taken.

Those for – Councillors Moss Boddy, Tom Feeney, Michael Jorgeson, Sue Little, Martin Scarborough, Carole Thompson and Mike Young.

Those against – Councillor Karen Oliver

Those abstaining – None

The application was, thereby, approved.

Decision

Planning Permission Approved with planning conditions delegated to the Planning and Development Manager (in consultation with the Chair and Vice-Chair of Planning Committee).

The meeting concluded at 11.40 am.

CHAIR

No: 1.
Number: H/2024/0196
Applicant: MR HENRY TONES OXFORD ROAD HARTLEPOOL
TS25 5SS
Agent: ELDER LESTER ARCHITECTS REEDS MILL ATLAS
WYND YARM TS15 9AD
Date valid: 27/06/2024
Development: Installation of roller shutter door (retrospective) and
creation of access and dropped kerb on to Spring Garden
Road
Location: STORAGE LAND TONES WORKSHOPS OXFORD
ROAD HARTLEPOOL

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 application was deferred by Members at the previous planning committee meeting of 09/09/2024 to allow Members to undertake a site visit. Since the publication of the previous committee report, comments have now been received from HBC Engineering Consultancy in which they raise no objections to the proposal and this is reflected in the report below.

1.3 There is no recent planning history relating to the current application site.

PROPOSAL

1.4 This application seeks retrospective planning permission for the installation of a roller shutter door within the southern boundary of the application site, adjacent to Spring Garden Road.

1.5 The application site is a storage yard which is understood to operate in connection with H. Tones Oxford Garage (car dealership). The roller shutter door is intended to provide vehicular access off Spring Garden Road.

1.6 The application seeks retrospective permission for the roller shutter door (to be used as a vehicular access), and also proposes that a dropped-kerb and pavement crossing would be installed, albeit such works are outside of the red line boundary and are within the adopted highway. It is understood that such works would therefore need to be considered through the relevant highways legislation / licenses.

1.7 Amended plans were received on 08/08/2024, indicating that the proposed access would operate as part of a one-way system. Under this system, vehicles would enter the storage yard off Oxford Road to the north, and exit via Spring Garden Road to the south. The agent also suggested that the hours of use could be restricted to mitigate car parking impacts. This is discussed in further detail below.

1.8 The application has been reported to planning committee owing to the number of objections received (more than 3) in line with the Council's Scheme of Delegation.

SITE CONTEXT

1.9 The application site is a storage yard which is understood to operate in connection with H. Tones Oxford Garage (car dealership).

1.10 H. Tones Oxford Garage is located adjacent to the junctions of Stockton Road with Oxford Road, and Stockton Road with Spring Garden Road. The application site is located approximately 14 metres west of the main business site, with Oxford Road adjacent to the north and Spring Garden Road adjacent to the south.

1.11 The application site is bounded to the east by a coach operator and to the west by commercial units including a service & MOT centre and an accident repair workshop.

1.12 No. 2A Spring Garden Road forms part of the southern boundary of the application site. Aside from this, both the northern and southern site boundaries are defined by brick walls with anti-climbing equipment fixed to the top. The southern boundary wall (on the boundary with Spring Garden Road) is constructed from red bricks and measures approximately 2.3 metres in height.

1.13 The established vehicular access to the application site is off Oxford Road to the north. The adjacent coach operator has an existing access off Spring Garden Road, as does National Tyres and Autocare adjacent to the east of this.

1.14 Despite the adjacent commercial uses, the application site is located in a predominantly residential area, with residential dwellings in close proximity to the application site on both Oxford Road and Spring Garden Road (including the adjacent dwelling 2A Spring Garden Road).

PUBLICITY

1.15 The application has been advertised by way of fifteen neighbour notification letters and a site notice. To date, four objections have been received from members of the public. A further response was received from National Tyres and Autocare, expressing neither support nor objection.

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

- The creation of a new vehicular access point would exacerbate existing traffic levels, congestion, and highway safety issues on Spring Garden Road;
- The creation of a new vehicular access point would exacerbate existing parking problems on Spring Garden Road.

1.17 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=162255>

1.18 The period for publicity has expired (although comments are awaited from HBC Engineering Consultancy as reflected in the report and officer recommendation below).

CONSULTATIONS

1.19 The following consultation replies have been received:

HBC Traffic & Transport: There have been many complaints regarding parking on Spring Garden Road in the vicinity of the proposed access. The complaints have been centred around the businesses in the area which has resulted in parking restrictions being implemented. This has impacted the amount of space residents have to park. In order to minimise the impact on residential parking the restrictions only apply between 8am – 6pm. The proposed access would result in the loss of parking in this vicinity of approximately 1 space.

The access would also result in an increased traffic flow on Spring Garden Road due to incoming delivery of new vehicles and outgoing of old stock.

I would consider that the proposed new access on Spring Garden Road would be detrimental to road safety due to increased traffic flow and would have a negative impact on residential parking. The Highways Section would therefore like to object to this application.

Additional HBC Traffic & Transport comments received 21/08/2024 following the receipt of amended plans and comments from the agent:

The one way system wouldn’t really help with the increased traffic flows.

The idea for allowing parking across the access is not really practical, residents or visitors may still be reluctant to park across an access regardless of a condition.

Therefore we would still maintain our objection to this scheme.

HBC Public Protection: Environmental Protection have no comments to make regarding this application.

HBC Commercial Services: Commercial Services would not have any comments.

HBC Building Control: As the works are external works and don't involve a building this wouldn't require a Building Regulations application.

HBC Engineering Consultancy: Thanks for the summary. I have reviewed this and the supporting documentation and can confirm that I have no concerns regarding flood risk or surface water drainage.

PLANNING POLICY

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

Hartlepool Local Plan

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

SUS1: The Presumption in Favour of Sustainable Development

LS1: Locational Strategy

CC1: Minimising and adapting to Climate Change

QP3: Location, Accessibility, Highway Safety and Parking

QP4: Layout and Design of Development

QP5: Safety and Security

QP6: Technical Matters

RC21: Commercial Uses in Residential Areas

National Planning Policy Framework (NPPF)(2023)

1.22 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:

PARA 001: Govt's planning policies for England

PARA 002: Status of NPPF

PARA 007: Meaning of sustainable development

PARA 008: Achieving sustainable development

PARA 009: Achieving sustainable development

PARA 010: Achieving sustainable development

PARA 011: The presumption in favour of sustainable development

PARA 012: The presumption in favour of sustainable development does not change statutory status of the development plan as the starting point for decision making

PARA 038: Positive and creative approach to decision making

PARA 047: Applications to be determined in accordance with the development plan, unless material considerations indicate otherwise

PARA 055: Use of conditions or planning obligations

PARA 085: Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt

PARA 115: Refusing applications on the grounds of highway safety

PARA 135: Policies and decisions ensuring good design

PLANNING CONSIDERATIONS

1.23 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 development, the impact on highway safety and car parking, the impact on residential amenity and privacy, the impact on the character and appearance of the local area, and any other material planning considerations.

PRINCIPLE OF DEVELOPMENT

1.24 The application site is not allocated for a specific use in the Hartlepool Local Plan (it is classed as ‘white land’), and is set within a predominantly residential area. The proposal therefore relates to a commercial use within a residential area, and Local Plan Policy RC21 is considered relevant. Local Plan Policy RC21 (Commercial Uses in Residential Areas) seeks to protect the vitality and viability of the designated retail and commercial centres within the Borough and the amenity of residents.

1.25 Policy RC21 therefore states that ‘Proposals for industrial, business, leisure, retail and other commercial development, or for their expansion, will not be permitted in predominantly residential areas outside the defined retail and commercial centres’ unless they satisfy a number of criteria including:

1. *There is no significant detrimental effect on the amenities of the occupiers of adjoining or nearby premises by reason of noise, smell, dust or excessive traffic generation, and*
2. *The design, scale and impact is compatible with the character and amenity of the site and the surrounding area, and*
3. *Appropriate servicing and parking provision can be made.*

1.26 Given the established presence of the main use on site (which is located within a sustainable location) and the nature of the current proposals (which relates to operational development and provision of an access), and subject to the above criteria being satisfied (as considered in the following sections), the principle of development is considered to be acceptable in this instance.

HIGHWAY SAFETY AND CAR PARKING

1.27 The application seeks to establish a new, commercial, vehicular access off Spring Garden Road. Whilst there are existing, commercial, vehicular accesses on Spring Garden Road (serving a coach operator and National Tyres and Autocare), it is nonetheless considered to be a predominantly residential street.

1.28 As stated previously, four objections were received from members of the public primarily in respect to highway safety, access and car parking matters.

1.29 It is understood that HBC Traffic & Transport has received past complaints regarding highway safety and car parking on Spring Garden Road, primarily arising from the presence of commercial business at the northern end of Spring Garden Road. HBC Traffic & Transport has therefore considered it necessary to implement parking restrictions in an attempt to mitigate some of these impacts.

1.30 HBC Traffic & Transport was consulted on the current application and have raised an objection on the basis that the proposed new access on Spring Garden Road would be detrimental to road safety due to increased traffic flow and that it would have a negative impact on residential parking.

1.31 Whilst it is acknowledged that the applicant attempted to address these concerns through the implementation of a one way system and by proposing restricted operating hours, HBC Traffic & Transport further confirmed that this approach would not be sufficient to mitigate the anticipated impacts on highway safety and car parking. It is further considered that a planning condition to restrict the access onto Spring Garden Road as an egress only (as part of a one way system, as proposed by the applicant's agent) would raise concerns over the enforceability of such a planning condition. In any event, it would not address the above concerns.

1.32 On this basis, it is considered that the proposal would have an unacceptable impact on highway safety and car parking to a degree that is considered sufficient to warrant a refusal of the application, contrary to the requirements of Local Plan Policies QP3 and RC21(1) and NPPF Paragraph 115 which states that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety...'*

IMPACT ON THE AMENITY AND PRIVACY OF NEIGHBOURING PROPERTIES

1.33 Local Plan Policy QP4 (Layout and Design of Development) requires, amongst other provisions, that the Borough Council will seek to ensure all developments are designed to a high quality and that development should not negatively impact upon the relationship with existing and proposed neighbouring land uses 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.

1.34 Whilst the proposal would introduce a large feature into the street scene that is considered more appropriate to an industrial or commercial setting, the installed roller shutter (and box housing) is of a height which is approximately equivalent to the existing boundary treatment (when factoring in anti-climbing equipment affixed to

the top of the wall). It is therefore considered that the installed roller shutter would not materially increase the scale and massing of the existing boundary treatment or adversely affect or reduce separation distances to adjacent neighbouring properties, and that there would therefore be no significant impact on neighbour dwellings through overbearing, overshadowing, or loss of outlook.

1.35 Due to the nature of the proposal, it is further considered that there would be no significant impact on neighbouring dwellings through overlooking or the perception of overlooking.

1.36 It is, however acknowledged that the proposed development would have the potential to generate an increase in the amount of activity and associated disturbance, primarily as a result of increased commercial traffic into this area. Notwithstanding this, consideration is given to the established presence of the existing business at the application site (albeit with no access onto Spring Garden Road), as well as the presence of an adjacent vehicular access (serving another business). Furthermore, it is noted that no objections or suggested conditions have been put forward by HBC Public Protection.

1.37 Policy RC21 states that businesses will not be permitted to operate between the hours of 6pm and 8am. Given that the application proposes operational development in relation to an existing established commercial use (as opposed to a new use), it is considered that it would be both unreasonable and unenforceable in this instance to limit the hours of operation (of the roller shutter and access).

1.38 Therefore and on balance, it is considered that the development would not result in an unacceptable negative impact on the amenity of surrounding properties in terms of noise and disturbance as to warrant a refusal of the application in this instance.

IMPACT ON CHARACTER AND APPEARANCE

1.39 Local Plan Policy QP4 (Layout and Design of Development) requires, amongst other provisions, that proposals should be of an appropriate size, design and appearance in keeping with / sympathetic to the host property and the character of the surrounding area. NPPF (2023) Paragraph 139 states that development which is not well designed should be refused.

1.40 The proposal would introduce a large feature (that is more common within an industrial or primarily commercial area) into the street scene whereby its impact is exacerbated by its stainless steel and galvanised finish which somewhat jars with the adjacent brown/dark red brick boundary wall, in part owing to its relative 'newness'. Nonetheless, and whilst acknowledging that Spring Garden Road is a predominantly residential street, it is considered that the southern boundary of the application site (which is defined by a brown/dark red brick wall measuring approximately 2.3 metres in height with anti-climbing equipment affixed to the top) already has a relatively imposing, commercial/light industrial appearance, as do the adjacent business premises to the east which also feature access points and other associated paraphernalia in this boundary wall.

1.41 Whilst the painting/treatment of the roller shutter (and box housing) to a colour that more closely matches that of the adjacent brick wall may further soften its appearance, in view of the above, it is considered that the proposals would not adversely affect the character and appearance of the application site or the surrounding area as to warrant a further reason for the refusal of the application in this instance.

1.42 It is recognised however, that character is not something that is purely physical and the nature of how a use operates can impact on the character of a site and the wider surrounding area. Given the immediate proximity of other commercial uses with access points onto Spring Garden Road, the introduction of a roller shutter (with associated access) into the boundary wall is considered not to adversely affect the character and appearance of the application site (including the boundary wall) or of the area.

1.43 In this context, it is considered that the installed roller shutter door (and associated access) would not enhance the character and appearance of the local area, but that the degree of impact would be insufficient to warrant a further reason for refusal of the planning application in this instance.

OTHER PLANNING MATTERS

Flood Risk and Surface Water Drainage

1.44 Environment Agency flood risk mapping indicates that the application site may be at risk of surface water flooding. In such cases, the NPPF advises that a site-specific flood risk assessment would be required in the event that the proposed development would introduce a land use which is more vulnerable to flooding.

1.45 The proposed development seeks to establish a new vehicular access for an existing use. On this basis, a site-specific flood risk assessment was considered not to be necessary in this instance, in line with the advice set out in the NPPF. As set out within the 'Consultations' section above, HBC Engineering Consultancy have confirmed that they have no concerns regarding flood risk or surface water drainage.

1.46 In view of the above, the proposal is considered to be acceptable in this respect.

EQUALITY AND DIVERSITY CONSIDERATIONS

1.47 There is no evidence of equality or diversity implications.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

1.48 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.

1.49 There are no Section 17 implications.

REASON FOR DECISION

1.50 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, the proposed development would constitute an unacceptable form of development that would have the potential to exacerbate traffic flow and parking issues in the area to the detriment of road safety, contrary to Policies QP3 and RC21(1) of the Hartlepool Local Plan 2018 and paragraph 115 of the NPPF (2023).

BACKGROUND PAPERS

1.51 Background papers can be viewed by the 'attachments' on the following public access page:
<https://planning.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=162255>

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

CONTACT OFFICER

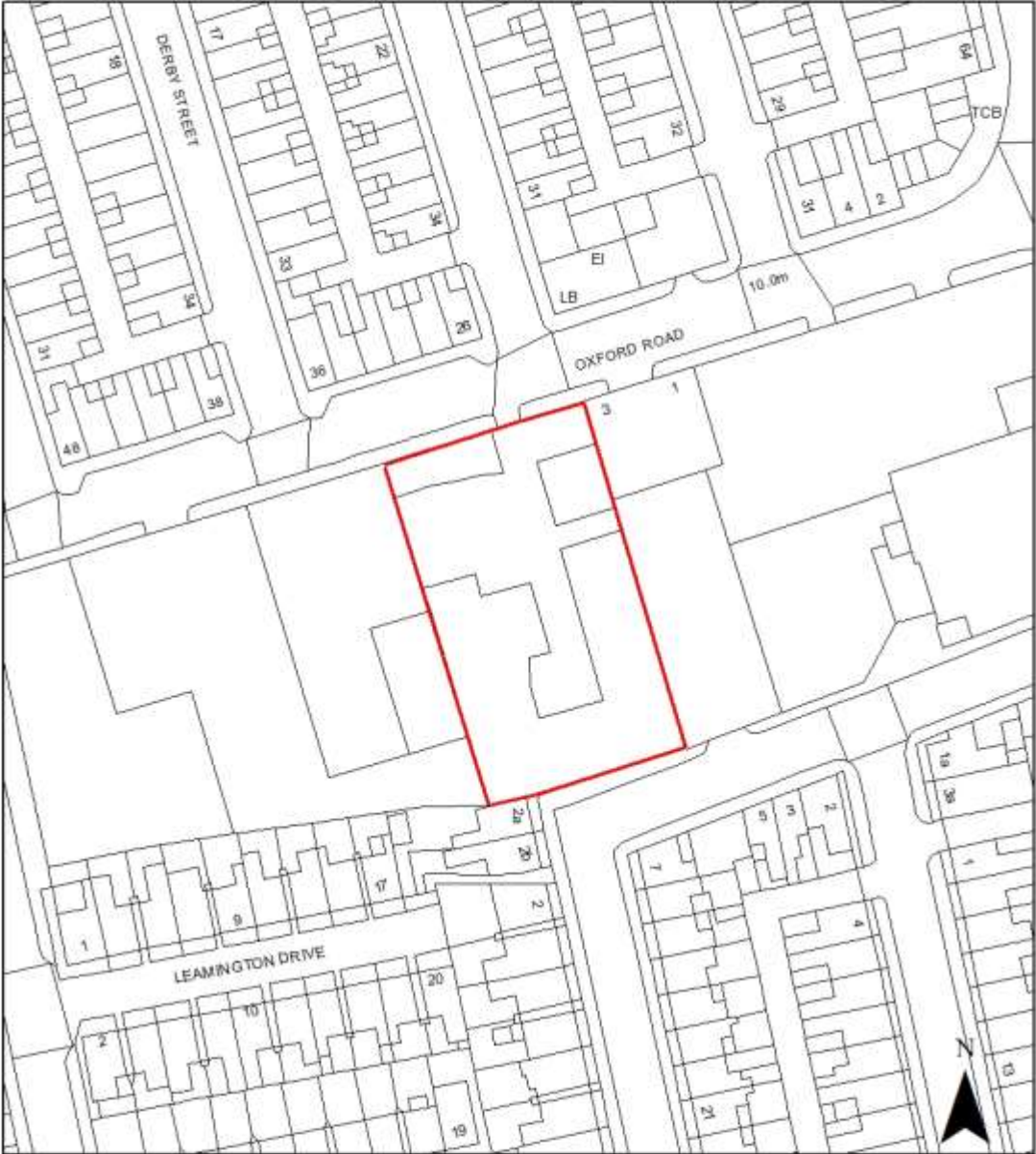
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Storage Land Tones Workshops Oxford Road, Hartlepool



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL Dept of - Development, Neighbourhoods and Regulatory Services Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRAWN JB	DATE 27.08.2024
	SCALE 1:800	
	DRG.NO H/2024/0196	REV

No: 2.
Number: H/2024/0192
Applicant: C/O AGENT
Agent: LICHFIELDS MR CHRISTOPHER SMITH THE ST
 NICHOLAS BUILDING ST NICHOLAS STREET
 NEWCASTLE UPON TYNE NE1 1RF
Date valid: 14/06/2024
Development: Section 73 application to vary condition 1 of planning
 permission H/2021/0508 (relating to the substitution of
 house types) in order to allow for the substitution of the
 H2 house type (on plots 12, 13, 14, 15, 29, 30, 31, 35 and
 36) (Site D) and the B7 house type (on plots 16, 21, 22,
 23, 24, 25, 26 and 27) (Site D)
Location: FORMER BRITMAG SITES C AND D OLD CEMETERY
 ROAD HARTLEPOOL

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 application site has a detailed site history. The following applications are considered to be relevant to the current application site (C and D);

H/2016/0399; Reserved matters application (appearance, landscaping, layout and scale) for the erection of 110 No. dwellings within Sites C and D, pursuant to outline planning permission H/2013/0573, approved 22.12.2016.

H/2020/0068; Section 73 application for variation of condition 1 or reserved matters approval H/2016/0399 (relating to appearance, landscaping, layout and scale for the erection of 110 No. dwellings with Sites C and D, pursuant to outline planning permission H/2013/0573) to allow for the substitution of house types on plots 62, 74, 78 and 83, erection of electricity substation between plots 53 and 54 with associated changes to parking layout for plots 54 and 56, approved 10.07.2020.

H/2020/0362; Section 73 application for variation of condition Nos. 1, 3 and 4 of planning approval H/2020/0068 (relating to the substitution of house types on plots 62, 74, 78 and 83, erection of electricity substation between plot 53 and 54 with associated changes to parking layout for plots 54 and 55) to allow for substitution of house types on plots (59, 60, 63, 64, 65, 74, 78, 79, 80, 83, 84, 85, 87 and 88 (Site C) and 16, 21, 22, 23, 24, 26 and 27 (Site D), amendment to parking arrangement for plot 54 and parking provision for plot 56, approved 21.01.2021.

H/2021/0508; Section 73 application to vary condition 1 (approved plans) of planning application H/2020/0362 (relating to the substitution of house types and parking layouts) to allow for substitution of house types on plots 78, 79, 80, 87, 88 (Site C) and plots 16, 21, 22, 23, 24 (Site D) (House Type B7 with balcony). Approved 01/02/2022.

2.3 The following applications are considered to be most relevant to the current and wider site (including the original outline permission that the current application site is predicated on and sites A and B);

H/2005/5254; an outline application for residential development open space and associated means of access was refused by the Local Planning Authority (LPA). The applicant appealed the LPA's decision and a public local inquiry took place in November and December 2009. Prior to this in November 2008, it was directed that the application be called in for the Secretary of State's (SoS) own determination (because of an outstanding objection from Natural England). The SoS disagreed with the Planning Inspector's recommendation for refusal, and the appeal was allowed, subject to conditions (decision dated 25.03.2010).

H/2011/0005; Variation of conditions on approval H/2005/5254, application approved 14.10.2011.

H/2013/0573; Variation of conditions and legal agreement on planning application H/2011/0005 to allow for the removal of the requirements for a buried long stop, the delivery of properties to level 3 of the code for sustainable homes, the requirements to deliver 10% renewable energy on site and 10% of affordable housing within each phase of the development, approved 09.10.2014.

2.4 This application in effect formed a new outline planning approval to which the subsequent reserved applications are pursuant to. A S106 Agreement was completed securing a number of financial contributions and obligations towards improvements to the Brus Tunnel, coastal footpath/cycleway, ecological mitigation, off site recreational areas and maintenance of public open space areas, sand dunes works and towards the Spion Kop Cemetery wall scheme.

H/2014/0470; Reserved matters (appearance, landscaping, layout and scale) for the erection of 373 No. dwellings within Phase 1 pursuant to H/2013/0573 (Sites A and B), approved 18.12.2014. The permission has been implemented and the site is currently under construction (by Persimmon Homes), approved 18/12/2014.

H/2018/0493; Variation of condition No. 1 of planning application H/2014/0470 for reserved matters (appearance, landscaping, layout and scale) for the erection of 373 No. dwellings within Phase 1 pursuant to H/2013/0573 dated 9 October 2014 (Sites A and B) in respect of the substitution of housetypes, minor amendments to the layout, and incorporation of 2 no. electrical substations, approved 26.06.2020.

S106 Variation

2.5 The original approval (H/2013/0365) was subject to a Section 106 Agreement which secured a number of planning obligations and financial contributions.

2.6 With regard to matters which are not part of this application, a report was presented to Members at Planning Committee in October 2019 which highlighted a number of changes to the original S106 legal agreement, these changes can be summarised as follows;

- A) Variation to bus stop contribution
- B) Variation to ecology mitigation contributions/obligations
- C) Deletion of 'insurance of sand dunes' covenant/obligation
- D) Replacement of existing clauses to allow for s73 variations to approved schemes
- E) It is common practice that a section 106 legal agreement will usually include a clause to allow for any subsequent Section 73 applications (which seek to make amendments to or removal of planning conditions attached to a planning permission). The original s106 associated with approval H/2013/0573 does not make such provision and in light of this current application, it is considered reasonable to include such a clause. The effect of this would be that should planning permission be granted by way of a s73 application, the requirements of the original s106 legal agreement (and proposed variations) would continue to apply, which is considered to be necessary

2.7 Members agreed to the above changes summarised above, subject to completion of s106 Deed of Variation, which was subsequently executed on 26.06.2020.

PROPOSAL

2.8 This Section 73 planning application to vary condition 1 of planning permission H/2021/0508 (relating to the substitution of house types) in order to allow for the substitution of the 'H2' house type (on plots 12, 13, 14, 15, 29, 30, 31, 35 and 36) (Site D) and the 'B7' house type (on plots 16, 21, 22, 23, 24, 25, 26 and 27) (Site D).

2.9 The substitution of house types would affect a total of 16 plots within site D and relates to 7 plots of the 'B7' house types being replaced with 'B7C' house types which will include a wider balcony on the rear elevations of these properties overlooking the sea, and 9 plots of the 'H2' house type being replaced with 'H2A' which relates to the introduction of an additional floor including a dormer window in the front elevation and a roof window in the rear elevation.

2.10 In detail, the proposed B7C house type would replace the B7 house type on plots 16 and 21-27 (inclusive). The footprint and elevations for the B7C house type are consistent with the previously approved house type B7B with changes relating only to the widening of the balcony extending from a dormer window on the rear roof slope (increasing in width from approximately 1.6m to approximately 3.7m). The balcony would be facilitated by a walk on platform (a flat roof section cut into the

main lean to roof of the property) with inward opening access doors from the dormer window. Beyond the extent of the dormer element, the balcony would feature a low enclosure to all three elevations, approximately 1.1m in height. The proposal would not affect the number of bedrooms (3) for this house type with the balcony serving the upper floor bedroom (which would be enlarged as a result of the proposed amended house type).

2.11 The H2A house type would replace the H2 house type for plots 12-15 (inclusive), 29-31 (inclusive) and 35-36 (inclusive) with a version labelled as H2A. The H2 house type on plots 5 and 8 would continue to be built out in accordance with the approved details (H2 house type). The proposed H2A house type would feature an additional floor (2nd floor within the roof space) together with a flat roof dormer window on the front elevation and a roof light on the rear elevation. At first floor, the two x 2-pane windows in the rear elevation would be replaced by one 3-pane window. Other windows and doors in the front, rear and side elevations would remain as per the layout of house type H2. This change to the house type would introduce an additional bedroom for house type H2A. The amendment to the house type would result in an increase in the eaves height from approximately 4.8m to approximately 5.35m, and an increase in the ridge height from approximately 8.2m to approximately 10.1m.

2.12 The house types H3, H4 and H5 would remain unchanged through this amendment. The overall layout of the development would also remain unchanged through the proposed amendments.

2.13 During the course of the application, amended plans were received to address an anomaly on the proposed site plans (in respect to the proposed larger balcony of proposed house type B7C). A period of further consultation was undertaken which has since expired.

2.14 The application has been referred to be determined in the planning committee due to the number of objections received.

SITE CONTEXT

2.15 The application site constitutes the former Britmag works site off Old Cemetery Road. This application site relates to Sites C and D of the originally approved outline application H/2013/0573.

2.16 The application site lies immediately adjacent to the Tees and Hartlepool Foreshore and Wetlands Site of Special Scientific Interest (SSSI), which is also a component part of Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar Site. The application site also lies in close proximity to the Durham Coast SSSI. The site boundary of site C abounds that of the Spion Kop Cemetery.

2.17 The site is accessed from Old Cemetery Road and Site C is understood to be nearing completion. Site D (where the amendments relating to this current application are proposed) remains under construction.

PUBLICITY

2.18 The application has been advertised by press notice and site notice as well as letters to 191 neighbours. To date, 11 representations raising objections and concerns have been received, primarily raising concerns regarding elements of the wider scheme (a number of responses directly confirm no objections with the proposed amendments to the house types, albeit one objection does raise direct concerns to the current proposals). The objections and concerns can be summarised as follows;

- Concerns regarding proposed cycle barrier and the newly cut path which will connect the coastal path with the development parcels and concerns over resultant anti-social behaviour/crime etc.
- unfinished roads, paths and street lighting
- footpaths not installed yet
- roads not being cleaned
- unfinished public open spaces
- new homes would be used as 'Air BnB' type properties
- the proposed house type changes (and increase in roof height to house type H2A) would result in an adverse impact on the residential amenity of a property within site C.

2.19 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=162228>

2.20 The period for publicity to neighbouring properties has expired.

CONSULTATIONS

2.21 The following consultation responses have been received:

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.

Update 19/09/2024 following discussions around the footpath links (and concerns raised by members of the public):

After careful consideration and basing my opinion on many site visits to North Sands (Site C), over the last two years; I am of the opinion that there is no requirement for the installation and opening of the two 'side' access points that would connect both site C and D to the path that runs between the two development sites.

When considering this, I have watched the residents and public using the existing new access point from Site C to the open space seaward of that site. I feel that this and the development entrance more than adequately offers good access provision. Similarly I would strongly assume the same for the developing Site D.

Site D is smaller than Site C and so any new residents would not be likely to be disadvantaged by only having the main development entrance and the access point seaward of Site D for them to use.

I therefore recommend that the side access points be ‘removed’ from any planning requirement or condition, placed upon this application.

Headland Parish Council – I have had no objections from members of Headland Parish Council regarding this planning application.

HBC Public Protection – No comments received.

HBC Traffic and Transport – There are no highway or traffic concerns with the change in house type.

HBC Ecology – Looking through the documentation, I have come to the conclusion that the existing HRA will suffice. I do not believe that the changes proposed in the amendment would substantially change the conclusions in the existing HRA, and therefore do not believe this would be beneficial.

Update 26/09/2024

A further response from the HBC Ecologist is awaited at the time of writing in respect to nutrient neutrality (following receipt of additional information from the applicant). The committee report and officer recommendation below reflects this. Should any comments be received before the committee meeting date, these will be duly considered and Members will be verbally updated at the meeting.

Northumbrian Water - That’s correct, this site will discharge to Seaton Carew Treatment Works. I have attached a copy of the overview of our Drainage and Wastewater Management Plan (DWMP) for this drainage area too. The DWMP is available on our website, but may be of use if any questions are raised about storm overflows.

PLANNING POLICY

2.22 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

2.23 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

HSG1: New Housing Provision

LS1: Locational Strategy

QP3: Location, Accessibility, Highway Safety and Parking

QP4: Layout and Design of Development
 QP5: Safety and Security
 QP6: Technical Matters
 QP7: Energy Efficiency
 SUS1: The Presumption in Favour of Sustainable Development

National Planning Policy Framework (NPPF)(2023)

2.24 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

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

PARA058: Planning conditions and obligations

PARA128: Achieving appropriate densities

PARA131: Achieving well-designed places

PARA135: Achieving well-designed places

2.25 **HBC Planning Policy comments** - There are no Planning Policy concerns with the application, providing the decision maker is satisfied that the requirements of policy QP4 have been met.

PLANNING CONSIDERATIONS

2.26 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 surrounding

area, the amenity of neighbouring land users, highway safety, ecology and drainage. These and all other planning and residual matters are set out in detail below.

PRINCIPLE OF DEVELOPMENT

2.27 The application relates to a Section 73 application to vary condition 1 of planning permission H/2021/0508 (relating to a previous substitution of house types, decision date 01/02/2022) in order to allow for the substitution of the H2 house type (on plots 12, 13, 14, 15, 29, 30, 31, 35 and 36) (Site D) and the B7 house type (on plots 16, 21, 22, 23, 24, 25, 26 and 27) (Site D). It is considered that the principle of the development has been established through the previously implemented planning permission(s). Whilst the Council's Local Plan has been adopted (May 2018) and the NPPF has been updated (2023) since the outline permission in 2013, the application site is not allocated for a specific purpose in the Local Plan (it is 'white land') and therefore the proposed amendments are considered to be compliant with the adopted Hartlepool Local Plan and the provision of the NPPF. The Council's Planning Policy section has raised no objections to the proposal from a policy perspective with respect to the proposed amendments.

2.28 As such the principle of development is considered to be acceptable subject to the scheme satisfying a number of material considerations, which are set out in detail below.

VISUAL AMENITY OF THE APPLICATION SITE AND THE CHARACTER AND APPEARANCE OF THE AREA

2.29 The proposed changes seek the substitution of house type H2 to be replaced with H2A house types which includes a raised height to allow for an additional floor (second floor) with the introduction of a dormer window to the front and a roof window to the rear on plots 12, 13, 14, 15, 29, 30, 31, 35 and 36, and the substitution of house type B7 with the B7A house type, which includes an enlarged balcony of the rear roof slope on plots 16, 21, 22, 23, 24, 25, 26 and 27.

2.30 It is acknowledged that the proposed changes to the house type H2 for H2A would result in the increase in the ridge height from approximately 8.2m to approximately 10.1m and the introduction of a dormer window to the front elevations and roof window to the rear elevations of these plots. Consideration is given to the location of the plots, of which 4 dwellings are in the north east corner facing an area of public open space, 3 dwellings are along the western edge of Site D facing out over open space (with Site C located beyond), and 2 are along the southern section facing on to Cemetary Road. The proposals would retain the same footprints as the previously approved house types and would not adversely affect the overall scale and layout of the development (as approved). Further consideration is given to the relationship between the neighbouring properties, which remains similar to those approved by virtue of H/2021/0508, and that would achieve the requisite minimum separation distances as set out in Policy QP4 of the Hartlepool Local Plan (2018) and the Council's Residential Design Guide SPD (2019).

2.31 In terms of the introduction of dormer windows (and increased ridge height), it is acknowledged that these would be readily visible from public open spaces and

main highways. Although other house types throughout the proposed development do not feature dormer windows of a similar scale, consideration is given to the mix of house designs including that some house types feature projecting gable frontages. Taking into account the overall modest scale of these house types, it is considered that on balance, these changes to the house type (H2 for H2A) including the raised house type and introduction of dormer windows and roof lights would not result in any significant additional impact upon the visual amenity of the area as a whole.

2.32 It is considered that the substitution of the house type B7B for B7C would retain the same footprint, whilst the changes relate only to the enlarging of a balcony protruding from the rear roof slope and dormer window. Although this would result in an amendment to the internal configuration to allow for a larger bedroom (serving the balcony), given that the elevations would primarily be similar to the H2B house type as previously approved (save for the enlarged balcony) and that the enlarged balcony remains of a modest scale and design, it is considered that the changes to the house type (B7B for B7C) would remain in keeping with the overall site as approved through H/2021/0508 (and earlier approvals), and would not create any significant impact upon the character and appearance of the area as a whole.

2.33 Given that there are no further amendments proposed, it is considered that the overall layout remains acceptable in respect of the impact on the character and appearance of the application site and surrounding area is acceptable as per the consideration of the scheme through s73 approval H/2021/0508.

2.34 In view of the above, and on balance, the proposal is considered to be acceptable in this respect, and to be in accordance with Policy QP4 of the Hartlepool Local Plan (2018) and paragraph 135 of the NPPF (2023).

AMENITY AND PRIVACY OF NEIGHBOURING LAND USERS AND FUTURE OCCUPIERS

2.35 The plots that are to have widened balconies incorporated in to their design would, in some instances, be partially screened from the neighbouring properties by the pitched roofs over the projecting single storey element (lounge area) of the main dwelling (for each plot). Some of the 'balcony' properties (B7C) are adjacent to properties which are separated by their respective garages. Although the proposed balcony design would be widened, consideration is also given to the relatively modest/limited scale of the usable platform area that the balconies would create (and that such plots benefit from an extant permission for the house type with the smaller balcony, house type B7B). Taking into consideration the oblique remaining separation distances and relationships to neighbouring plots, it is considered that only limited views would be achievable towards any windows in the rear or side elevations of adjacent plots from the balconies (within proposed house type B7C). It is further considered that the garden areas to the north of the properties sit adjacent to the public open space beyond and are generally limited in area with the intended more private/enclosed amenity/garden space to the south of such dwellings.

2.36 The relationships are described in more detail below;

2.37 The side of the balcony serving plot 27 (B7C house type) would achieve a distance of approximately 5.9m to the side of plot 26 (also a proposed B7C house type) to which it is considered that no direct views would be achievable to the windows in the rear (north) elevation of plot 26 or the roof lights in the front and rear elevations of this plot, as a result of the orientation of the two properties that feature a similar building line. Similarly, the side of the balcony serving plot 26 would result in the same relationship to plot 27. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy

2.38 The side of the balcony serving plot 27 (B7C house type) would achieve a separation distance of approximately 5.8m to the eastern side of plot 28, which features a H5 house type with a projecting element to the eastern extent which does not feature windows. It is considered that no direct views would be achievable to the doors in the eastern elevation of the set back element of this neighbouring plot, and that any views would further be screened by the projecting pitched gable element of plot 27. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.39 The eastern side of the balcony serving plot 26 would achieve a separation distance of approximately 6.7m to the western side of plot 24 (B7C house type), with the pitched gable projecting element of plot 26 between. It is considered that no direct views would be achievable to the windows in the rear (north) elevation of plot 24 or the roof lights in the front and rear of this neighbour, as a result of the orientation of the two properties that feature a similar building line. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.40 Plots 23 and 24 would both feature the same proposed house type (B7C). Owing to the presence of the 'handed' projecting single storey elements along the shared boundary that would partially assist in screening direct views between the two balconies, and remaining separation distance of approximately 10m between the two balconies, it is considered that no direct views would be achievable towards windows in the rear elevations of each property. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.41 Plots 23 and 22 (both B7C house types), and plots 22 and 21 (both B7C) would achieve similar distances and the same relationship as plots 24 and 23 as described above, and are considered to be acceptable in this respect.

2.42 A distance of approximately 7.5m would remain between the balcony serving plot 21 and the western side elevation of plot 20 (H5 house type). Given that this house type does not feature windows in the main projecting element of this plot and taking into account the oblique relationship between the proposed balcony at plot 21 to the doors in the western side of plot 20, it is considered that there would be no unacceptable overlooking toward this neighbour. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.43 A distance of approximately 12.4m would remain between the balcony serving plot 16 and the western side elevation of plot 17 (H5 house type). Given that this house type does not feature windows in the main projecting element of this plot

and taking into account the oblique relationship between the proposed balcony at plot 16 to the doors in the eastern side of plot 17, it is considered that there would be no unacceptable overlooking toward this neighbour. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.44 A distance of approximately 5.3m would remain from the balcony to serve plot 16 to the main side/rear elevation of plot 15 (H2A house type), which does not feature windows in the side elevation. Taking into account the orientation of plot 15 which projects forward (at the front/north elevation) in relation to plot 16, it is considered that there would be no direct views toward the windows in the northern elevation of this plot. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.45 A distance of approximately 2.5m would remain from the side of plot 15 (H2A house type) to the main side elevation of plot 16 (B7C house type), which remains as per the layout and orientation of these two plots. Although it is acknowledged that the orientation of plot 15 is set back (at the front/north elevation) in relation to plot 16, taking into account the oblique relationship, it is considered that there would be no direct views toward the windows in any elevation or roof slope of plot 16 from the proposed dormer or roof window in plot 15. It is acknowledged that the raised height of plot H2A is a notable increase in relation to the adjacent dormer bungalow of plot 16, however taking into account the oblique relationship and remaining space around plot 16, it is considered that the amended house type (at plot 15) would not result in any significant impacts in terms of overshadowing, overbearing impression or loss of outlook. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.46 Given that plots 12, 13, 14 and 15 are a terraced row of properties, and taking into account that direct views would not be achievable between dormer windows or roof windows to/from other windows in these adjoining plots, it is considered that there would be no direct views or unacceptable relationship achievable to each of these plots than as originally considered (and approved) through H/2021/0508. This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.47 Given the orientation of windows and relationships to adjacent plots, it is considered that there would be no direct views or unacceptable relationship achievable between plot 35 (H2A house type) and plot 34 (H3) and between plots 36 (H2A house type) and plot 37 (H4 house type) or between plots 35 and 36 as a result of the increased height of the house type and introduction of dormer windows to the front and roof windows to the rear of these plots (35 and 36). As noted above, the footprint of these house types would not be materially amended from those previously approved (H/2021/0508). This relationship is therefore considered to be acceptable in terms of any impact on amenity and privacy.

2.48 In terms of plots 29, 30 and 31 (H2A house types) located on the western side of site D, satisfactory separation distances would be retained as per the consideration of H/2021/0508 to plots 28 (north), 27 (north east), 25 (east), 32 (south), 33 (south east), and plots 55-59 (inclusive, within Site C which are understood to be built and occupied), whereby it is considered that the increase in

ridge and eaves height and the installation of dormers to the front (west) and roof lights to the rear (east) to these plots (29, 30 and 31) would not result in any significant overlooking, loss of outlook or overbearing/overshadowing effects on the amenity and privacy of the neighbouring properties/plots than as considered through approval H/2021/0508 or as to warrant a refusal of the current application.

2.49 Furthermore, the distances from the proposed plots (to be amended) to surrounding properties including those properties/plots opposite the site within site C (to which an objection has been received from a current occupant of a property along Hays Gardens, understood to be plot 57) would achieve a satisfactory separation distance of approximately 44m with the presence of the remaining open space between the two sites (C and D). This distance more than exceeds the required 20m as required by Policy QP4 and the aforementioned SPD. This relationship is therefore considered, on balance, to be acceptable in terms of any impact on amenity and privacy.

2.50 Furthermore and to reiterate, the gardens serving the majority of properties along the northern boundary of the site have smaller/limited garden areas to the north (adjacent to the public open space) with the main private amenity space present on the southern elevation of the dwellings where direct views from the proposed balconies towards such garden areas would not be achievable. The exceptions to this are set out in the following paragraphs;

2.51 Plot 21 (B7C) which sits adjacent to plot 20 (H5) house type which is an inverted 'T' shape. The western elevation of plot 20 features a blank side elevation on the section immediately adjacent to plot 21 whilst it is considered that no direct views would be achievable towards windows in the front and rear elevations of No. 20 with a distance remaining of approximately 13.5m remaining to the set of French doors in the side/west of plot 20 (albeit oblique and partially screened by the projecting element of plot 20). Consideration is also given to the previously approved scheme and layout (H/2021/0508) where similar relationships were deemed to be acceptable. As such it is considered that the proposal would not result in an unacceptable loss of amenity and privacy for existing and future occupiers of the 2 plots as to warrant a refusal of the application.

2.52 Plot 17 (another H5 house type) sits adjacent to plot 16 (B7C) and is served by a main rear garden to the east of the host dwelling (and adjacent to the side/rear of plot 16). Owing to the orientation of the two plots, the presence of the projecting single storey lounge element of plot 16 that would assist in screening some views from the balcony towards windows in the rear of No 17 and that the proposal would achieve a satisfactory separation distance of approximately 10m to windows in the rear elevation of plot 17, it is considered that the proposal would not result in an unacceptable loss of amenity and privacy for existing and future occupiers of the 2 plots as to warrant a refusal of the application. Consideration is also given to the previously approved scheme and layout (H/2021/0508) where similar relationships were deemed to be acceptable.

2.53 Given the remaining separation distances and oblique angles/relationships, it is considered that the proposed widened balconies serving house type H7C and the proposed increase in ridge and eaves height (and additions of roof lights and dormer

windows) to house type H2A would not offer direct views to habitable rooms (or immediate rear garden areas), and the proposals would therefore would not lead to any unacceptable level of overlooking and loss of privacy (including an increased perception of overlooking) or to their amenity (in terms of loss of outlook, overbearing and overshadowing) to the occupiers of those properties as to warrant a refusal of the application. In respect to plots 16, 21, 22, 23, 24, 25, 26 and 27, there are no properties directly behind these plots and the provision of the balcony would, in effect, offer an ‘uninterrupted’ sea views.

2.54 Due to the minor nature of the proposals and satisfactory separation distances are generally maintained, in line with the general requirements of Policy QP4 and the aforementioned Residential Design Guide SPD (and where such relationships are not fully achieved, the scheme is still considered acceptable for the reasons detailed above), it is considered that the proposed amendments to the scheme would not have any appreciable impact on the amenity or privacy of neighbouring properties and/or future occupiers for the reasons detailed above.

2.55 The scheme is also considered to be acceptable in respect to the remaining relationship to the established residential properties to the south east of the application site (along Leas Grove, Howard Street, Winston Court and Marine Drive) and to the south (beyond Old Cemetery Road) given the substantial intervening separation distances. Lastly, the proposals are considered to be (and remain) acceptable in respect to the satisfactory relationship the adjacent cemeteries to the north.

2.56 No comments (or objections) have been received from the Council’s Public Protection team. Hours of construction/deliveries and a construction management plan were secured through separate planning conditions on the approved outline permission and remain applicable to the current application.

2.57 In view of the above it is considered that the proposed amendments are acceptable with respect to the impact on the amenity and privacy of neighbouring land users, and is in general accordance with paragraph 135 of the NPPF (2023) and Policy QP4 of the Hartlepool Local Plan (2018).

ECOLOGY

Habitats Regulation Assessment

1) Recreational impacts on designated sites

2.58 During the course of consideration of the outline planning application (H/2013/0573), Stage 1 and Stage 2 Habitat Regulations Assessments were undertaken by the Council’s Ecologist (as the competent authority). The Council’s Ecologist has confirmed that the changes proposed in the amendment would not substantially change the conclusions in the existing HRA. The proposal is therefore considered acceptable in this respect.

2) Nutrient Neutrality

2.59 On 16 March 2022 Hartlepool Borough Council, along with neighbouring authorities in the catchment of the Tees, received formal notice from Natural England that the Teesmouth & Cleveland Coast Special Protection Area and Ramsar site is now considered to be in an unfavourable condition due to nutrient enrichment, in particular with nitrates, which are polluting the protected area.

2.60 Given this application would involve development comprising residential development, it is considered the proposals are technically 'in scope' for further assessment. The applicant has since submitted a Nutrient Statement which concludes that the application does not result in a net increase in nitrates as a result of foul and surface water discharging to the Seaton Carew Waste Water Treatment Works, which has been confirmed by Northumbrian Water. A HRA Stage 1 Screening Assessment is required to be completed by the Council's Ecologist that would confirm there would not be a Likely Significant Effect on the designated sites. This is awaited at the time of writing and Members will be updated on receipt of any comments (or confirmation of this Assessment) at the committee. This is reflected in the officer recommendation below.

2.61 In terms of other ecological matters, including biodiversity net gain, biodiversity enhancement and biodiversity compensation and mitigation measures, the current application is a S73 application to amend house types, and as such it is considered that these matters were considered in detail in the previous applications and would continue to apply. Furthermore, the recent introduction of statutory biodiversity net gain (in February 2024) does not apply to s73 application such as the current application.

2.62 In view of the above and subject to confirmation of the HRA Stage 1 Assessment to rule out any Likely Significant Effects on the designated sites, the proposal is considered to be acceptable in ecology terms.

OTHER PLANNING MATTERS

Other Planning Matters

2.63 No objections have been received from HBC Traffic and Transport in respect to the proposed house type amendments. The scheme is therefore considered to remain acceptable in regard to highway and pedestrian safety.

2.64 With respect to matters of flooding, drainage, contaminated land, landscape, and heritage assets, these matters have been addressed through previous planning conditions and legal obligations that remain applicable to this application should it be approved. The application is therefore considered to be acceptable with respect to these matters.

Planning Obligations

2.65 As a result of the variation to the original s106 which captures amendments to subsequent s73 permissions (and as described in the Background), no further amendments to the Legal Agreement are required in the determining of this current S73 application.

Footpath connections and resident concerns

2.66 It is acknowledged that a number of objections from members of the public raise concerns in respect to the proposed footpath links from the eastern side of Site C and the western side of Site D to the existing footpath that runs between these sites to extend north to the existing coastal footpath. No objections or issues were raised by relevant consultees on the previous application(s) including from the Council's Countryside Access Officer and the details were secured by a planning condition (condition 4 of approval H/2021/0508, the same condition is recommended to be re-applied to this application in the event of an approval). It is understood from the applicant's supporting information that the cycle barriers would be installed (as previously agreed), however at the time of the case officer's site visit (September 2024), these had not yet been installed.

2.67 Whilst the Council's Countryside Access Officer raises no objections to the current proposals, following further consultation on this matter (and in light of the objections received as part of this application), the Council's Countryside Access Officer has advised that on further reflection, that these footpath links are not essential to make the development acceptable (given the other footpath links within both sites C and D). In response to this, the applicant's agent has advised that these comments (and the concerns of residents) will be considered in due course which may result in the applicant submitting a further form of application to consider this matter further (to which further consultations would be undertaken as appropriate). The applicant's agent has asked that the application be considered as submitted which primarily relates to substitution of house types on the identified plots (of which such amendments are considered to be acceptable for the reasons detailed above).

2.68 It is acknowledged that concerns have been received from members of the public in respect to unfinished roads, paths and street lighting, roads not being cleaned and unfinished public open spaces. The original outline approval H/2013/0573 and subsequent reserved matters and discharge of conditions applications included a number of conditions (including a construction management plan and landscaping plans) to ensure that the proposed development is carried out without unnecessary disturbance to residents of nearby properties or members of the public. Given that the application site is under construction and there are other mechanisms in place to ensure that these matters are applied however it is considered that the current application cannot control such matters.

2.69 In respect to the occupation of properties as Air BnB type properties, for example, this is not a matter that can be controlled (or considered) as part of this planning application.

CONCLUSION

2.70 It is considered that in relation to the relevant policies as stated above, and in relation to the impact of the proposal on visual amenity, neighbour amenity and highways, the proposed replacement house types (relating to the substitution of the H2 house type for the H2A house type on plots 12, 13, 14, 15, 29, 30, 31, 35 and 36) and the B7 for the B7C house type on plots 16, 21, 22, 23, 24, 25, 26 and 27, both

within Site D) is considered acceptable and is therefore recommended for approval subject to the conditions set out below.

EQUALITY AND DIVERSITY CONSIDERATIONS

2.71 There is no evidence of equality or diversity implications.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

2.72 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.

2.73 There are no Section 17 implications.

REASON FOR DECISION

2.74 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 consideration of any comments received from the Council's Ecologist (in respect to a Habitat Regulations Assessment to screen out any likely significant effects resulting from nutrient neutrality) and subject to the conditions below:

1. The development hereby permitted shall be carried out in accordance with the plans and details;

Dwg No: P11 Rev A (Site Location Plan -RM Submission Sites C and D (showing red-line boundary)),

Dwg. No. 12 (Site Plan as Existing - Sites C and D),

T1-01 Rev A (House Type 1 Floor Plans and Elevations),

T2-01 Rev A (House Type 2 Floor Plans and Elevations),

T3-01 Rev A (House Type 3 Floor Plans and Elevations),

T4-01 Rev A (House Type 4 Floor Plans and Elevations),

T5-01 Rev A (House Type 5 Floor Plans and Elevations),

T6-01 Rev A (House Type 6-01 Rev A (Bungalow Type 6 Floor Plans),

T7-01 Rev (House Type 7-01 Rev A (Bungalow Type 6 Floor Plans) and

TG-01 (Garage Type Floor Plans and Elevations),

received by the Local Planning Authority on 22/09/2016;

Dwg No: 074.01 Rev H (Landscape Masterplan),

Dwg No: 074.02 Rev C (Detailed Landscape Proposals Sheet 1 of 4),

Dwg No: 074.03 Rev E (Detailed Landscape Proposals Sheet 2 of 4),

Dwg No: 074.04 Rev D (Detailed Landscape Proposals Sheet 3 of 4),

Dwg No: 074.05 Rev D (Detailed Landscape Proposals Sheet 4 of 4),

Dwg No: P17-076-3E-00-XX-DR-C-1000 Rev P7 (Drainage Layout - Site C),

Dwg No: P17-076-3E-00-XX-DR-C-1008 Rev P2 (Flood Flow Plan - Site C),

Dwg No: P17-076-3E-00-XX-DR-C-1200 Rev P2 (Impermeable Areas Plan - Site C),

Dwg No: P17-076-3E-00-XX-DR-C-2001 Rev P5 (Proposed External Levels - Site C),

Dwg No: P17-076-3E-00-XX-DR-C-6000 Rev P7 (Section 104 Plan - Site C),
received by the Local Planning Authority on 6th October 2020;

Dwg No: 16020 T7-01 Rev A (Bungalow Type 7 Floor Plans),

Dwg No: 16020 T7A-01 Rev C (Bungalow Type 7 Floor Plans – Dormer Window Version),

Dwg No: 16020 T7B-01 Rev A (Bungalow Type 7B – Balcony Version),
received by the Local Planning Authority on 8th November 2021;

Dwg No: 16020 P09 Rev R (Materials and Enclosures Site C),

Dwg No: 16020 P05 Rev U (Proposed Housing Layout Site C),
received by the Local Planning Authority 17th January 2022;

Dwg. No. 16020 07C-001 (House Type 7C – Ground Floor Plan – Planning Drawing),

Dwg. No. 16020 07C-002 (House Type 7C – First Floor Plan – Planning Drawing),

Dwg. No. 16020 07C-003 (House Type 7C – Front Elevation – Planning Drawing),

Dwg. No. 16020 07C-004 (House Type 7C – Rear Elevation and Section Thru Garage – Planning Drawing),

Dwg. No. 16020 07C-005 (House Type 7C – Gable Elevations – Planning Drawing),

Dwg. No. 16020 02A-001 (House Type 2A – Ground and First Floor Plans – Planning Drawing),

Dwg. No. 16020 02A-002 (House Type 2A – Second Floor Plan and Section – Planning Drawing),

Dwg. No. 16020 02A-003 (House Type 2A – Elevations – Planning Drawing),

Dwg. No. 16020 02A-004 (House Type 2A – Elevations – Planning Drawing),
received by the Local Planning Authority on 14th June 2024;

Dwg No: 16020 P06 Rev U (Proposed Housing Layout Site D),

Dwg No: 16020 P07 Rev S (Proposed Housing Layout Site C and D),

Dwg No: 16020 P08 Rev M (Proposed Parking Schedules Site C and D),

Dwg No: 16020 P10 Rev S (Materials and Enclosures Site D),

Received by the Local Planning Authority on 23rd August 2024.

For the avoidance of doubt.

2. This approval relates solely to the Section 73 application for the variation of condition 1 (approved plans) of planning permission H/2021/0508 (decision dated 1st February 2022) to allow for house type substitutions. The other conditions attached to the original permission (H/2016/0399) shall continue to apply to this permission and shall be complied with.

For the avoidance of doubt.

3. The scheme for soft landscaping, hedge, tree and shrub planting shall be carried out in accordance with Dwg No: 074.01 Rev H (Landscape Masterplan), Dwg No: 074.02 Rev C (Detailed Landscape Proposals Sheet 1 of 4), Dwg No: 074.03 Rev E (Detailed Landscape Proposals Sheet 2 of 4), Dwg No: 074.04 Rev D (Detailed Landscape Proposals Sheet 3 of 4), Dwg No: 074.05 Rev D (Detailed Landscape Proposals Sheet 4 of 4), all date received by the Local Planning Authority 6th October 2020 and an updated version of the Britmag Timeline Schedule (as required by condition 7 of this decision notice). All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity, dune management and to ensure a satisfactory form of development.
4. The provision of footpath connections to the England Coast Path and positions of 'chicane style cycle barriers' (within the application site) shall be carried out solely in accordance with the approved scheme, programme and timetable of works as detailed on plans Dwg No: 074.01 Rev H (Landscape Masterplan), Dwg No: 074.02 Rev C (Detailed Landscape Proposals Sheet 1 of 4), Dwg No: 074.03 Rev E (Detailed Landscape Proposals Sheet 2 of 4), Dwg No: 074.04 Rev D (Detailed Landscape Proposals Sheet 3 of 4), Dwg No: 074.05 Rev D (Detailed Landscape Proposals Sheet 4 of 4), all date received 6th October 2020 and an updated version of the Britmag Timeline Schedule (as required by condition 7 of this decision notice).
In the interests of providing recreational routes and the interests of the protection of the SPA and the England Coast Path.
5. The proposed hard landscaping and surface finishes (including the proposed car parking areas, footpaths and any other areas of hard standing to be created) scheme hereby approved (as detailed in condition 1, approved plans) shall be completed to the satisfaction of the Local Planning Authority in accordance with the agreed details prior to the occupation of any of the dwellings hereby approved.
To enable the Local Planning Authority to control details of the proposed development, in the interests of visual amenity of the area.
6. Notwithstanding the submitted plans, access to the approved substation adjacent to plots 53 and 54 (as detailed on the approved plans listed in condition 1) shall be taken from within the site, and no access to the substation shall be taken from Old Cemetery Road.
In the interest of highway safety and visual amenity of the area.
7. In accordance with the requirements of conditions 3 and 4 of this permission and within one month from the date of the decision notice, an updated version to the previously approved Britmag Timeline Schedule shall be submitted in writing to the Local Planning Authority. Thereafter and following the written approval of the

Local Planning Authority, the scheme shall be carried out in accordance with the approved Britmag Timeline Schedule and requirements of the other planning conditions of this planning permission.

To ensure a satisfactory form of development.

BACKGROUND PAPERS

2.75 Background papers can be viewed by the ‘attachments’ on the following public access page:

<https://planning.hartlepool.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=162228>

2.76 Copies of the applications are available on-line:

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

CONTACT OFFICER

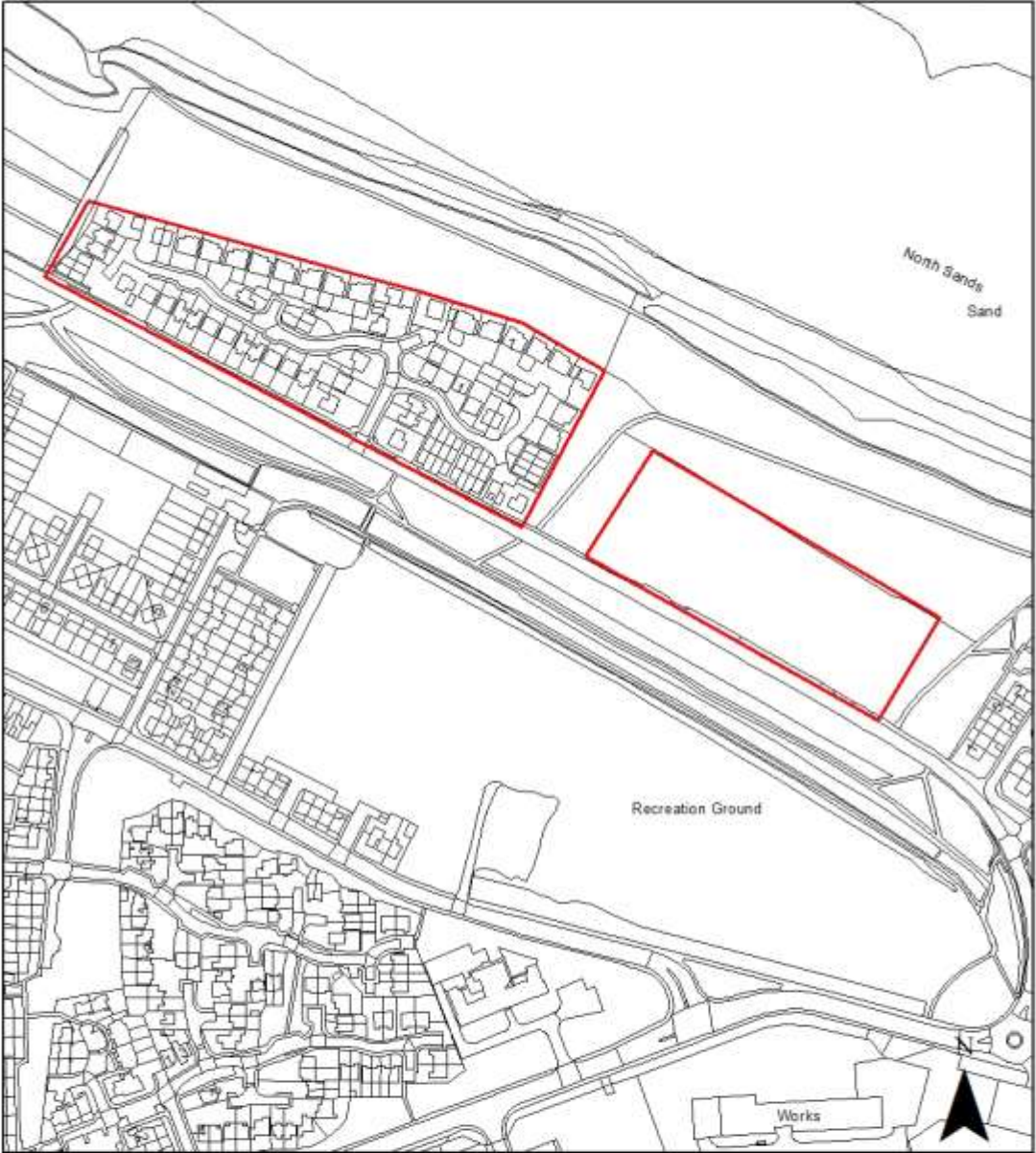
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Former Britmag, Sites C and D Old Cemetery Road, Hartlepool



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL Dept of - Development, Neighbourhoods and Regulatory Services Civic Centre, Victoria Road, Hartlepool TS24 8AY	DRAWN JB	DATE 25 09.2024
	SCALE 3,000	
	DRG.NO H/2024/0192	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"> Local and National planning policy 	<ul style="list-style-type: none"> Political opinion or moral issues
<ul style="list-style-type: none"> Visual impact 	<ul style="list-style-type: none"> Impact on property value
<ul style="list-style-type: none"> Loss of privacy 	<ul style="list-style-type: none"> Hypothetical alternative proposals/sites
<ul style="list-style-type: none"> Loss of daylight / sunlight 	<ul style="list-style-type: none"> Building Regs (fire safety, etc.)
<ul style="list-style-type: none"> Noise, dust, smells, vibrations 	<ul style="list-style-type: none"> Land ownership / restrictive covenants
<ul style="list-style-type: none"> Pollution and contaminated land 	<ul style="list-style-type: none"> Private access disputes
<ul style="list-style-type: none"> Highway safety, access, traffic and parking 	<ul style="list-style-type: none"> Land ownership / restrictive covenants
<ul style="list-style-type: none"> Flood risk (coastal and fluvial) 	<ul style="list-style-type: none"> Private issues between neighbours
<ul style="list-style-type: none"> Health and Safety 	<ul style="list-style-type: none"> Applicants personal circumstances (unless exceptional case)
<ul style="list-style-type: none"> Heritage and Archaeology 	<ul style="list-style-type: none"> Loss of trade / business competition (unless exceptional case)
<ul style="list-style-type: none"> Biodiversity and Geodiversity 	<ul style="list-style-type: none"> Applicants personal circumstances (unless exceptional case)
<ul style="list-style-type: none"> Crime and the fear of crime 	
<ul style="list-style-type: none"> Planning history or previous decisions made 	

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

PLANNING COMMITTEE

9th October 2024



Report of: Assistant Director – Neighbourhood Services

Subject: PLANNING APPEAL AT 91 ELWICK ROAD
HARTLEPOOL
APPEAL REF: APP/H0724/W/24/3343622.
Change of use from a vacant beauty salon (E Use Class) to hot food takeaway (Sui Generis Use Class) (H/2023/0314).

1. PURPOSE OF REPORT

- 1.1 To advise members of the outcome of a planning appeal that has been determined in respect of the change of use from a vacant beauty salon (E Use Class) to hot food takeaway (Sui Generis Use Class), reference H/2023/0314.
- 1.2 The appeal was dismissed. A copy of the Inspector's decision (dated 29/08/2024) is attached. (**Appendix 1**).

2. RECOMMENDATIONS

- 2.1 That Members note the outcome of this appeal.

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Appendix 1.



The Planning Inspectorate

Appeal Decision

Site visit made on 31 July 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/H0724/W/24/3343622

91 Elwick Road, Hartlepool TS26 9AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Manminder Singh Dhatt against the decision of Hartlepool Borough Council.
- The application Ref is H/2023/0314.
- The development proposed is change of use from beauty salon to hot food takeaway.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the application form, although the decision notice refers to it as 'change of use from a vacant beauty salon (E use class) to hot food takeaway (sui generis use class)'. As there is no evidence to confirm agreement for the revision to the description, I have used the description from the original application.

Main Issues

3. The main issues are:
 - Whether the proposed use of the building would affect the vitality and viability of local centres;
 - The effect of the proposal on the health of local residents;
 - The effect of the proposal on the character and appearance of the host building and the area; and
 - The effect of the proposal on the living conditions of neighbouring residents with regards to outlook, odour, noise and disturbance.

Reasons

Vitality and viability

4. The appeal site was previously used as a beauty salon and is currently vacant. It is located on Elwick Road which has a number of shops and commercial premises along it, although the road and streets surrounding the site are mainly residential.
5. Policy RC21 of the Hartlepool Local Plan, 2018 (LP) does not permit commercial uses in residential areas outside defined retail and commercial centres unless it

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/H0724/W/24/3343622

would have no significant detrimental effects on the amenities of occupiers of adjacent premises; the design, scale and impact is compatible with the character and amenity of the site and surrounding area; and appropriate servicing and parking provision is available. The policy does not, however, permit hot food takeaways.

6. The site is not in a defined retail and commercial centre. Furthermore, LP Policy RC18 does not permit hot food takeaways outside such a designated area. The Policy states that this is to protect the vitality and viability of the network of retail and commercial centres within the borough and seek to protect the residential amenity of nearby residents.
7. Whilst the proposal would re-use an existing commercial premises that is no longer occupied, there is little substantiated evidence as to whether this is the only viable use for the building. The appellant is experienced in running fish and chip shops, with a stated gap in the market for traditional food outlets in the area. However, whilst the proposal would provide some employment and contribute to the local economy, the development plan policies do not support hot food takeaways in this locality.
8. Therefore, I conclude that the proposed development in this predominately residential location would harm the vitality and viability of existing local centres. It would not accord with LP Policies RC21 and RC18 as set out above which seek to protect the vitality and viability of the network of retail and commercial centres within the borough, as well as not permitting hot food takeaways outside of them.

Health effects

9. Paragraph 96 c) of the National Planning Policy Framework refers to planning decisions that should aim to enable and support healthy lifestyles, especially where this would address identified local health and well-being needs, such as access to healthier foods. LP Policy RC18 places strict controls on proposals for hot food takeaways in order that residents have an opportunity for a healthy lifestyle.
10. Whilst the appellant is seeking to provide healthier options such as grilled fish and fish without batter, as well as a salad bar, a suitably worded condition that limits the types of food that is served from the premises would neither be reasonable or enforceable. The appellant refers to the traditional nature of fish and chips, which is expensive compared with other takeaway foods, and that they would serve food at traditional mealtimes. Notwithstanding this, the development proposal is for the premises to be used as a hot food takeaway.
11. The Council's Public Health Officer has referred to the Council's commitment to reducing high levels of obesity within the borough. This includes some of the highest figures in England for children being overweight. Furthermore, the Council refer to Hartlepool having 160.5 hot food takeaways per 100,000 population, as opposed to a national average of 96.1. The supporting text to LP Policy RC18 explains that obesity can lead to a number of illnesses. Whilst there are several factors that can cause these, there is a definite link to an unhealthy diet contributing to many of these illnesses. For these reasons the Council has sought to limit the number of takeaways to support residents having a healthy lifestyle.

Appeal Decision APP/H0724/W/24/3343622

12. Therefore, I conclude that the proposal could harm the health and well-being of local residents. It would conflict with LP Policy RC18 as set out above, as well as the advice in paragraph 96 of the Framework to support healthy lifestyles to address the health and well-being of the local community.

Character and appearance

13. The appeal site is a brick, end-terraced property on the corner of Elwick Road with Grasmere Street. It has a traditional bay window on the 1st floor with the ground floor having roller shutters across the front elevation. On the side elevation along Grasmere Street, there are roller shutters over two windows and a doorway.
14. The only external alterations resulting from the development proposal, would be the construction of a flue on the rear of the property. No 91 is taller than those properties adjoining it and it has a high parapet wall along the side elevation on Grasmere Street. Whilst much of the flue would be hidden, it would extend upwards, higher than the eaves level of the building.
15. Although the flue would not be seen from the front of the property, it would be visible from views along Grasmere Street, as well as from the rear of some properties along Keswick Street. Whilst the flue would not be excessively large, there are no other similar features in the area. Therefore, it would appear somewhat incongruous within a residential area. Moreover, as the building is located on the corner, at right angles to the properties along the western side of Grasmere Street, and is higher than those buildings adjacent to it, the flue would be prominent. Consequently, it would be unsympathetic to the residential characteristics of the area.
16. I therefore conclude that the construction of the flue would harm the character and appearance of the host building and the area. It would conflict with LP Policies RC21 and QP4 which together and amongst other things requires that the design, scale and impact of commercial uses in residential areas is compatible with and contributes to the character and amenity of the site and the surrounding area.

Living conditions of neighbouring residents

17. Whilst the flue would be visible from a number of vantage points at the rear, No 93 Elwick Road and No 4 Grasmere Street have common boundaries with the appeal site. However, the position of the flue in relation to the location of the outdoor yard areas of these properties, means that the flue would not harm the outlook of occupiers of these, or other properties in the area.
18. The premises would be open between 11.30-13.30 and 16.15-20.15 hours, in order that it would not disturb neighbouring residents. Moreover, suitably worded conditions could restrict the opening hours and delivery times. The proposed development is on a main road and whilst the Council has no highway concerns, third parties have raised objections regarding parking for the proposal. Whilst it would generate some traffic, this is unlikely to lead to local parking issues. Moreover, the restricted hours would also prevent disturbance from cars later in the evening.
19. Conditions requiring details of the flue and extraction system to ensure that noise and odours would not result from the development, as well as the provision of sound protection between No 91 and the adjoining property would

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3

Appeal Decision APP/H0724/W/24/3343622

prevent harm to neighbouring residents. There is no dispute between the main parties regarding such conditions, which I have no reason to disagree with.

20. I therefore conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring properties with regards to outlook, noise, disturbance, and odour. It would not conflict with LP Policies RC18 and RC21 which together seek to protect the residential amenity of nearby residents.

Other Matters

21. The appellant states that CCTV would be installed, the development would be to Secured by Design standards, and that bringing the building back into use would help to reduce crime in the area. However, no evidence has been submitted that suggests that the empty building is leading to criminal activity. Therefore, I give only limited weight to this.
22. Whilst the appellant contends that another retailer could sell unhealthy food from the premises and operate with longer hours, this is not what has been applied for. Therefore, I have determined the appeal on its own merits, based on the evidence before me.

Conclusion

23. The proposed development conflicts with the development plan when considered as a whole. Whilst the proposal would not harm the living conditions of neighbouring residents, this does not outweigh the identified harm and associated development plan conflict.
24. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR

PLANNING COMMITTEE

9th October 2024



Report of: Assistant Director – Neighbourhood Services

Subject: ENFORCEMENT NOTICE APPEAL AT THE
BUNGALOW, LOW THROSTON HOUSE,
NETHERBY GATE, HARTLEPOOL

APPEAL REF: APP/H0724/C/24/3344250
(HBC REF N/2024/0001)

CHANGE OF USE OF LAND TO EXTEND
CURTILAGE OF 1NO. DWELLING (APPROVED
UNDER H/2021/0215) AND ERECTION OF FENCE
TO ENCLOSE LAND INTO RESIDENTIAL
CURTILAGE.

1. PURPOSE OF REPORT

- 1.1 To advise members of an enforcement notice appeal that has been submitted against the Council's decision to issue an Enforcement Notice in respect of the unauthorised development comprising a change of use of land to extend the curtilage of a dwelling (approved under H/2021/0215) and the erection of a fence to the enclose land into residential curtilage.
- 1.2 A related retrospective planning application was refused by the LPA on 15/03/2023 (HBC ref H/2022/0378). The subsequent appeal (and costs appeal) was dismissed by the Planning Inspectorate on 08/12/2023 (appeal reference APP/H0724/W/23/3323428).
- 1.3 It is considered that that the extension of the garden curtilage and erection of a timber closed boarded fence fails to preserve and/or enhance the special character and setting of the Schedule Monument (known as Low Throston deserted medieval village) due to the design, scale and siting of the development. It is further considered that the development results in an unsympathetic and visually intrusive form of development that significantly diminishes the character and appearance of the area and that there is no evidence or identified public benefits that would outweigh this harm. The development is therefore contrary to Policies HE1 and QP4 of the Hartlepool Local Plan (2018) and the relevant provisions of the NPPF (2021).

- 1.4 An Enforcement Notice was therefore issued to the occupant, with the following requirements:

1) Restore the fence line boundary to its original position as shown on plan 415d-S2D SITE PLAN (Proposed) (date received 24/05/2021 by the Local Planning Authority) approved under reference H/2021/0215 (copy attached) in accordance with the methodology set out in steps (i), (ii) and (iii) below:

(i) The fence posts shall be cut to be level with, or marginally below original ground level (maximum 200mm depth without any additional ground disturbance).

(ii) The revetment feature at the inside base edge of the fence shall be:
a. removed if it has been placed on the original ground surface,
OR,
b. cut to ground level.

(iii) If the upright sleeper retaining wall and any brickwork/foundations associated with the patio are to the west of the redefined line of the boundary these shall be removed to ground level without additional ground disturbance.

2) Remove any debris associated with steps 1) (i), (ii) and (iii).

- 1.4 A period of 2 months from the date that the notice takes effect was given for compliance with the steps specified.

2. RECOMMENDATIONS

- 2.1 That Members note this report.

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PLANNING COMMITTEE

9th October 2024



Report of: Assistant Director – Neighbourhood Services

Subject: PLANNING APPEAL AT LAND NORTH DUCHY
HOMES WYNWARD BILLINGHAM
APPEAL REF: APP/H0724/W/24/3351264
Outline Planning Application for the erection of 3 no.
residential plots with associated access (all matters
except access reserved).

1. PURPOSE OF REPORT

1.1 To advise members of a planning appeal that has been submitted against the Council's decision to refuse an outline planning application for the erection of 3no. residential plots with associated access (all matters expect access reserved), reference H/2024/0011.

1.2 The planning application was refused at the planning committee meeting of 17th April 2024 for the following reasons:

1. The site is within an area of Green Wedge where the siting of new dwelling is contrary to policy NE3 of the Hartlepool Local Plan 2018.

2. There is the potential for the development to impact a potential heritage asset with potential archaeological interest. It has not been demonstrated that there would be no unacceptable harm to the potential heritage asset, and as such the development is contrary to policies HE1, HE2 of the Hartlepool Local Plan 2018 and the advice in National Planning Policy Framework (NPPF) (December 2023).

3. The proposed development has not secured the necessary obligations related to primary education, secondary education, playing pitches/sports hub, Castle Eden walkway, east/west cycleway, and off-site affordable housing. Failure to address these obligations would lead to significant impacts that are contrary to policies QP1, INF1, INF2, and HSG6 of the Hartlepool Local Plan 2018, as well as the guidance outlined in the National Planning Policy Framework (NPPF) (December 2023).

4. Insufficient information has been submitted to demonstrate that acceptable drainage would be provided and the development would not cause flooding. As such the proposal is contrary to policies CC1, CC2 and

QP6 of the Hartlepool Local Plan 2018 and the advice in National Planning Policy Framework (December 2023).

2. RECOMMENDATIONS

- 2.1 That Members note this report.

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