

# PLANNING COMMITTEE AGENDA



**Wednesday, 21<sup>st</sup> March, 2007**

**at 10.00 a.m.**

**in the Council Chamber**

## MEMBERS OF PLANNING COMMITTEE:

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

Also to Councillor Griffin (substitute for Councillor Iseley)

### 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 21<sup>st</sup> February 2007 *(to follow)*

### 4. ITEMS REQUIRING DECISION

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

1. H/2006/0755 Eden Park
2. H/2006/0891 7 Hylton Road
3. H/2007/0018 Butterwick Moor, Sedgfield
4. H/2006/0338 The Wynd
5. H/2006/0877 2 Victoria Road
6. H/2007/0056 Area 7C Middle Warren

- 4.2 Planning Code of Conduct – *Chief Solicitor*

- 4.3 Update on Current Complaints – *Assistant Director (Planning and Economic Development)*

- 4.4 Enforcement Action – Titan House, Corner of Park Road and York Road, Hartlepool – *Assistant Director (Regeneration and Planning)*
- 4.5 Appeal by Mr Weed, 18 Lowthian Road – *Assistant Director (Planning and Economic Development)*
- 4.6 Appeal Ref APP/HO724/A/07?2038902/NWF:H/2006/0824 Variation of Condition 2 attached to Planning Approval H/2005/5500 to allow Sunday opening between the Hours of 9am and 10.30pm . 34A Duke Street, Hartlepool, TS25 5RJ – *Assistant Director (Planning and Economic Development)*

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

6. **FOR INFORMATION**

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of Monday 16<sup>th</sup> April 2007 at 9.30 am

Next Scheduled Meeting – Wednesday 18<sup>th</sup> April 2007

# **PLANNING COMMITTEE**

## **MINUTES AND DECISION RECORD**

21<sup>st</sup> February 2007

The meeting commenced at 10.00 a.m. in Owton Manor Community Centre,  
Wynyard Road, Hartlepool

**Present:**

Councillor Rob Cook (In the Chair)

Councillors Shaun Cook, Stan Kaiser, Geoff Lilley, George Morris, Robbie Payne, Carl Richardson, Maureen Waller, Ray Waller and Gladys Worthy

**Also Present:**

In accordance with Council Procedure Rule 4.2:  
Councillor Denis Waller as substitute for Councillor Stephen Akers-Belcher  
Councillor Sheila Griffin as substitute for Councillor Bill Iseley,

Officers: Tony Brown, Chief Solicitor  
Richard Teece, Development Control Manager  
Roy Merrett, Principal Planning Officer  
Chris Roberts, Development and Co-ordination Technician  
Linda Wright, Planning Officer  
Gill Scanlon, Planning Technician  
Stephanie Bristow, Environmental Protection Officer  
Pat Watson, Democratic Services Officer  
Jo Wilson, Democratic Services Officer

### **129. Apologies for Absence**

Apologies were received from Councillors Stephen Akers-Belcher, Derek Allison and Bill Iseley.

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

None

### **131. Confirmation of the minutes of the meeting held on 24<sup>th</sup> January 2007.**

Agreed

## **132. Planning Applications** (*Assistant Director (Planning and Economic Development)*)

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

**Number:** H/2006/0891

**Applicant:** Mr Kevin Smart  
Wilson Smart Homes 29 Glentower  
Grove Hartlepool

**Agent:** Cad-Link Architectural Services Ltd Mr Alan Roberts  
26 Mountston Close Hartlepool

**Date received:** 02/01/2007

**Development:** Demolition of existing property and erection of two detached houses with one associated detached garage.

**Location:** 7 HYLTON ROAD HARTLEPOOL

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

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

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**Number:** H/2006/0856

**Applicant:** Ms Alex Ross  
41 Park Road Hartlepool

**Agent:** Anthony Walker and Partners Mr Guy Rawlinson St  
Josephs Business Centre West Lane Killingworth  
Village Newcastle upon Tyne

**Date received:** 24/11/2006

**Development:** Formation of a linear park and associated works including alley gates and boundary walling

**Location:** THORNTON STREET HARTLEPOOL

**Representations** Alex Ross (Applicant) addressed the Committee.  
The Committee considered written representations in relation to this matter

**Decision: Planning Permission Approved**

**CONDITIONS AND REASONS**

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid
2. Notwithstanding the submitted details the scheme shall only be carried out in accordance with final details to be first submitted to and approved in writing by the Local Planning Authority before works to begin the formation of the park commence. Thereafter the development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.  
To enable the Local Planning Authority to ensure the development is carried out in a satisfactory manner.
3. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved, with the exception of demolition works, is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.  
In the interests of visual amenity.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.  
In the interests of visual amenity.
5. Unless otherwise agreed in writing details of all walls, gates, railings, bollards, fences and other means of enclosure shall be submitted to and approved by the Local Planning Authority before these parts of the development so approved are commenced.  
In the interests of visual amenity.
6. Unless otherwise agreed in writing details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development, with the exception of demolition works, commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
7. Unless otherwise agreed in writing with the Local Planning Authority, prior to the commencement of development, with the exception of demolition works, the final treatment of the gables of 4 Johnson Street,

1 & 2 Stotfold Street, 1 & 2 Alderson Street and 1 & 2 Mitchell Street shall be submitted to and agreed in writing with the Local Planning Authority. The gables shall thereafter be finished in accordance with the details so approved.

In the interests of the visual amenity of the area.

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

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<b>Number:</b>	H/2006/0882
<b>Applicant:</b>	LeeStoddart Jones Road Hartlepool
<b>Agent:</b>	Lee Stoddart 42 Jones Road Hartlepool
<b>Date received:</b>	22/12/2006
<b>Development:</b>	Change of use to cafe to include hot food for sale for consumption off the premises
<b>Location:</b>	249 RABY ROAD HARTLEPOOL
<b>Representations:</b>	The Committee considered written representations in relation to this matter

## CONDITIONS AND REASONS

1. The permission hereby granted is valid until 21 February 2008 and the use shall cease on or before that date unless the prior permission of the Local Planning Authority has been obtained to an extension of this period.  
To enable the Local Planning Authority to assess the use in the light of experience.
2. The premises shall only be open to the public between the hours of 07.00 hours and 1800 hours Mondays to Saturdays inclusive and at no other time on Sundays or Bank Holidays.  
In the interests of the amenities of the occupants of neighbouring properties.
3. Notwithstanding the submitted plans, within 3 months of the date of this permission, details for a ventilation filtration and fume extraction equipment to reduce cooking smells should be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved equipment shall be installed, retained and used in accordance with the manufacturers instructions at all times whenever food is being cooked on the premises.  
In the interests of the amenities of the occupants of neighbouring properties.

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<b>Number:</b>	H/2006/0723
<b>Applicant:</b>	Ms Amanda Senior Three Rivers House Abbeywoods Business ParkDurham
<b>Agent:</b>	Mackellar Architecture LimitedMr Brian Wood 77-87 West Road Newcastle Upon Tyne
<b>Date received:</b>	23/10/2006
<b>Development:</b>	Erection of a Supported Living Scheme for adults comprising 10 one bedroom flats, communal living/dining/kitchen/laundry/resource areas,staff overnight stay facility and rest rooms (AMENDED PLANS RECEIVED)
<b>Location:</b>	adjoining 80 REED STREET HARTLEPOOL
<b>Representations:</b>	Chris Reed (Applicant) and Clive Hall (Objector) addressed the Committee. The Committee considered written representations in relation to this matter
<b>Decision:</b>	<b>Planning Permission Refused</b>

## REASON(S) FOR REFUSAL

1. It is considered that the proposed development would be out of keeping in this predominantly industrial and commercial area and that activities from those uses would not be conducive to a good living environment for the occupants of the supported living scheme particularly by way of poor outlook, noise and general disturbance. As such the proposed development is contrary to policies GEP1 and Hsg12 of the adopted Hartlepool Local Plan.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2007/0006
<b>Applicant:</b>	Mr THorwood 42 Bilsdale RoadHartlepool
<b>Agent:</b>	Jacksonplan LimitedMr Ted Jackson 7 Amble Close Hartlepool
<b>Date received:</b>	04/01/2007
<b>Development:</b>	Erection of a detached bungalow and detached double garage and a single detached garage including alterations to access
<b>Location:</b>	42 BILSDALE ROAD HARTLEPOOL
<b>Representations:</b>	Mr Jackson (Agent) and Councillor Turner (Ward Councillor) (Objector) address the Committee. The Committee considered written representations in relation to this matter
<b>Decision:</b>	<b>Planning Permission Refused</b>

## REASON(S) FOR REFUSAL

1. In the opinion of the Local Planning Authority the proposed development would be detrimental to the amenities of local residents by virtue of noise and disturbance associated with comings and goings to the site contrary to policies GEP1 and Hsg9 of the Hartlepool Local Plan 2006.
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**Number:** H/2006/0906

**Applicant:** Mr H Ullah  
Grosvenor Street Hartlepool

**Agent:** Business Interiors Group 73 Church Street  
HARTLEPOOL

**Date received:** 18/12/2006

**Development:** Alterations, installation of new shop front and  
change of use to provide a hot food takeaway shop

**Location:** 27 MURRAY STREET HARTLEPOOL

**Representations:** Ian Cushlow (Agent to the Applicant) and Mr Nunn  
(Objector) addressed the Committee.  
The Committee considered written representations  
in relation to this matter

**Decision:** **Planning Permission Approved**

## CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid
2. The use shall not take place other than between the hours of 10.00 - 23.30 Mondays - Saturdays and at no other time on Sundays, Bank or Public Holidays.  
In the interests of the amenities of the occupants of neighbouring properties.
3. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
4. Before the use hereby approved begins, a scheme for the installation of equipment to control the emission of fumes and odours from the premises shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented before the use commences. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with manufacturer's instructions at all times while the use exists and food is being cooked on the premises.  
In the interests of the amenities of the occupants of neighbouring properties.
5. Prior to the commencement of the use hereby approved investigations shall be undertaken to establish whether measures are required to prevent odours passing through the ground floor party wall. If so, a

scheme to prevent the transmission of such odours shall be submitted to and approved in writing by the Local Planning Authority. Once approved any scheme shall be implemented before the use commences and thereafter retained throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

In the interests of the amenities of the occupants of neighbouring properties.

6. Notwithstanding the submitted plans the main entrance to the building shall be level or ramped in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter the approved access details shall be retained during the lifetime of the development.

To ensure the access is safe and suitable for all people, including people with disabilities.

The Committee considered representations in relation to this matter.

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<b>Number:</b>	H/2006/0814
<b>Applicant:</b>	Mr Nigel Dawson Keel Row 12 Watermark Gateshead
<b>Agent:</b>	Mackellar Architecture Limited Mr Brian Wood 77-87 West Road Newcastle Upon Tyne
<b>Date received:</b>	01/12/2006
<b>Development:</b>	Erection of a 3 storey, 80 bedroom care home with car parking (resubmitted application)
<b>Location:</b>	LAND AT CORNER WARREN AND EASINGTON ROAD HARTLEPOOL
<b>Representations:</b>	The Committee considered written representations in relation to this matter
<b>Decision:</b>	<b>Planning Permission Approved</b>

## CONDITIONS AND REASONS OR REASONS FOR REFUSAL

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. Notwithstanding the floor and ground/site levels shown on the submitted plans and details, the final finished floor and ground/site levels shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. The

finished floor and ground/site levels shall thereafter be in accordance with the levels so agreed, unless otherwise agreed in writing with the Local Planning Authority.

In order that further consideration can be given to this matter in light of continuing discussion with the Environment Agency.

3. The premises shall be used as a care home as described in the details submitted with the application and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment)(England) Order 2005 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.

In the interests of the amenities of the occupants of neighbouring properties.

4. The proposed windows in the north elevation of the northern projection of the building shall be glazed with obscure glass which shall be installed before the care home is occupied and shall thereafter be retained at all times while the windows exist.

To prevent overlooking.

5. The car and cycle parking areas shown on the plans hereby approved shall be provided before the use of the site commences and thereafter be kept available for such use at all times during the lifetime of the development.

In the interests of the amenities of the occupants of neighbouring properties.

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

In the interests of visual amenity.

7. Details of all walls, fences and other means of boundary enclosure including retaining walls, shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced. The approved enclosures shall be installed, in the approved locations, on site prior to the building being brought into use. In the interests of visual amenity and security.

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

In the interests of visual amenity.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species,

unless the Local Planning Authority gives written consent to any variation.

In the interests of visual amenity.

10. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.  
To ensure that any site contamination is addressed.
11. The development hereby permitted shall not be brought into use until a "prohibition of waiting order" has been implemented on the southern side of Warren Road in accordance with details first submitted to and approved in writing by the Local Planning Authority.  
In the interests of highway safety.
12. No development shall commence until details for the disposal of surface water arising from the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.  
In order to ensure that a satisfactory means for the disposal of surface water is agreed and secured.
13. Unless otherwise agreed in writing with the Local Planning Authority no development shall commence until details of a safe exit route, not adversely affecting the flood regime, to land outside the 1 in 100 year flood plain, are submitted to and agreed in writing with the local planning authority. This route must be in place before any occupancy of the buildings.  
To provide safe access and egress during flood events and reduce reliance on emergency services.
14. There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways.

- To prevent pollution of the water environment.
15. Details of the proposed external lighting for the site, including lighting at the vehicular entrance, for car parking areas, footpaths and external doors in accordance with BS5489 (Codes of Practice for Street Lighting) and BSEN13201, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the building.  
In the interest of security and the amenity of neighbouring properties
  16. Details of proposed materials for all hard surfaces (including access roads, paths, parking areas, manoeuvring areas) shall be submitted to and approved in writing prior to the commencement of development. The development shall be carried out in accordance with the details so approved.  
In the interest of highway safety and visual amenity.
  17. All ground floor external windows shall be Secured by Design in accordance with BS7950:1997 Specification for enhanced security.  
In the interests of security and crime reduction.
  18. All ground floor external doors shall be Secured by Design in accordance with BS PAS 24-1 1999 Doors of enhanced security.  
In the interests of security and crime reduction.
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<b>Number:</b>	H/2007/0035
<b>Applicant:</b>	Mr Mrs Al-Faham GLEDSTONE WYN YARD WOODS BILLINGHAM
<b>Agent:</b>	Mr Mrs Al-Faham 10 GLEDSTONE WYN YARD WOODS BILLINGHAM
<b>Date received:</b>	16/01/2007
<b>Development:</b>	Variation of condition 3 of planning approval H/FUL/2004/0940 to allow the provision of frosted film to windows facing 9 Gledstone
<b>Location:</b>	10 GLEDSTONE WYN YARD WOODS BILLINGHAM
<b>Representations:</b>	Mr Cooper (Objector) addressed the Committee. The Committee considered written representations in relation to this matter
<b>Decision:</b>	<b>Planning Permission Refused</b>

## REASON(S) FOR REFUSAL

1. It is considered that the film which is an applied finish has a bland, uninteresting and intrusive appearance. As a consequence it is considered that the film could be removed in whole or in part to the

detriment of the privacy of the occupiers of the adjoining residential property which could be potentially overlooked contrary to Policy GEP1 of the adopted Hartlepool Local Plan.

2. It is considered that because of its appearance the film would be out of keeping and detrimental to the visual amenities of the occupiers of the adjoining residential property contrary to Policy GEP1 of the adopted Hartlepool Local Plan.

B Officers be instructed to serve a Breach of Condition Notice to require the windows facing 9 Gledstone which have been glazed with glass and film and clear glass respectively to be replaced with glass which is itself obscure as required by condition 3 of the original approval for this development. A period of 2 months was specified for compliance.

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<b>Number:</b>	H/2006/0755
<b>Applicant:</b>	Mr K Hair 4 Burnhope RoadHartlepool
<b>Agent:</b>	Jacksonplan LimitedMr Ted Jackson 7 Amble Close Hartlepool
<b>Date received:</b>	09/10/2006
<b>Development:</b>	Outline application for the erection of 4 detached houses with detached garages
<b>Location:</b>	EDEN PARK SELF DRIVE HIRE SEATON LANE HARTLEPOOL
<b>Representations:</b>	The Committee considered written representations in relation to this matter
<b>Decision:</b>	<b>Deferred for additional information</b>

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<b>Number:</b>	H/2006/0893
<b>Applicant:</b>	Mr Keith Duckett Huntsman Tioxide Greatham Works Greatham Works Tees RoadHartlepool
<b>Agent:</b>	Huntsman Tioxide Greatham WorksMr Keith Duckett Greatham Works Tees Road Hartlepool
<b>Date received:</b>	12/12/2006

**Development:** Works to enable a 50% increase (from 100kte/a upto 150kte/a) in the production capacity of titanium dioxide including the construction of a new wet treatment building, alterations to existing plant and replacement chlorination stack

**Location:** HUNTSMAN TIOXIDE TEES ROAD  
HARTLEPOOL

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

**Decision:** **Planning Permission Approved**

## CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid
2. The development hereby permitted shall be carried out in accordance with the plans, details and environmental statement received by the Local Planning Authority on 12th of December 2006, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt
3. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
4. All flood sensitive equipment to be set at a minimum level of 5.10m AOD to take into account future sea level rise.  
To reduce the risk of flooding.
5. Development approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the details approved. The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.
6. Prior to the commencement of any works on site, a settlement facility for the removal of suspended solids from surface water run-off during construction works shall be provided in accordance with details previously submitted to and approved in writing by the Local planning Authority. The approved scheme shall be completed in accordance with the approved plans.  
To prevent the pollution of the water environment.
7. No development approved by this permission shall be commenced until:
  - a. a desk top study has been carried out which shall include the identification of previous site uses, potential contaminants that might

reasonably be expected given those uses and other relevant information. And using this information a disgrammatical representation (Conceptual Model of the geology and hydrogeology) for the site of all potential contaminant sources, pathways and receptors has been produced.

b. A site investigation has been designed for the site using the information obtained from the desk top study and any diagrammatical representations (Conceptual Model of the geology and hydrogeology). This should be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable: - a risk assessment to be undertaken relating to all receptors including ground and surface waters associated on and off the site that may be affected, and - refinement of the Conceptual Model, and - the development of a Method Statement detailing the remediation requirements.

c. The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken.

d. A Method Statement detailing the remediation requirements, including measures to minimise the impact on all receptors including ground and surface waters, using the information obtained from the Site Investigation has been submitted to the LPA. This should be approved in writing by the LPA prior to that remediation being carried out on the site.

To protect all receptors and ensure that the remediated site is reclaimed to an appropriate standard.

8. If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA) shall be carried out until the applicant has submitted, and obtained written approval from the LPA for, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

To ensure that the development complies with the approved details in the interests of protection of all receptors.

9. The development of the site should be carried out in accordance with the approved Method Statement.

To ensure that the development complies with approved details in the interests of protection of all receptors.

10. The construction works associated with the developments hereby approved shall only be carried out during the hours of 07:00 until 19:00 in April to September and 08:00 until 17:00 in October to March.

To limit potential noise and disturbance upon the surrounding nature conservation sites.

11. Bored piling techniques will be used for the construction of the structures hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

To limit noise and vibration from the site upon the surrounding areas of nature conservation.



12. Prior to the commencement of the development hereby approved details of proposed noise sheilding techniques shall be submitted to and agreed in writing by the Local Planning Authority once agreed shall be used throught the construction period of the development unless otherwise agreed in writing by the Local Planning Authority.  
To limit noise and vibration from the site upon the surrounding areas of nature conservation.
13. If during construction of the development hereby approved the noise levels anticipated in the environmental statement are exceeded, works should cease immediatley and details of additional noise mitigation measures should be submitted to and agreed in writing by the Local Planning Authority.  
To limit noise and vibration from the site upon the surrounding areas of nature conservation.
14. Construction activities shall be carried out in accordance with the socio-economic, flora and fauna, noise and vibration, traffic and transportation, land quality and air and climate mitigation measures detailed in Section 5.2.1.3, 5.3.4, 5.4.8, 5.5.3, 5.6.3, 5.7.4 and 5.8.4 of the Environmental Statement reference number AEAT/ENV/R/2346 Issue 1 received by the Local Planning Authority on the 12th of December 2006 unless otherwise agreed in writing by the Local Planning Authority.  
To ensure the site is developed in a satisfactory manner.
15. Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the LPA that provides verification that the required works regarding contamination have been carried out in accordance with the approved method Statement (s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report. To protect all receptors by ensuring that the remediated site has been reclaimed to an appropriate standard.
16. A programme of weekly visual checks of the water level and water quality of Greenabella Marsh shall be undertaken during the construction phase of the project with records to be made available to the Local Planning Authority on request.  
To ensure that the water levels and water quality of the Greenabella Marsh are maintained.  
To ensure that the water levels and water quality of the Greenabella Marsh are maintained.

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**133. Appeal by Mandale Commercial Ltd, Slake Terrace, Hartlepool** (*Assistant Director (Planning and Economic Development)*)

Members were advised that an appeal had been lodged against the refusal of the Committee to allow the erection of a small retail/food unit at

Slake Terrace, Hartlepool.

The appeal was decided by written representation and allowed by the Planning Inspectorate. The Inspector concluded that the proposal would not adversely affect the character and appearance of the surrounding area and would not therefore be contrary to policy GEP1 of the Local Plan.

The decision letter of the Planning Inspectorate was attached to the report.

**Decision**

That the report be noted

**134. Appeal by Gorkhan Tikna, site at 93 York Road, Hartlepool, TS26 8AD** (*Assistant Director (Planning and Economic Development)*)

Members were advised that an appeal had been lodged against the refusal of a planning application to extend the hours of operation of a hot food takeaway at the above premises to 1am on Monday, Tuesday, Wednesday and Thursday mornings and until 3am on Friday, Saturday and Sunday mornings.

The appeal was dismissed by the Inspector who considered that the proposed opening hours would be contrary to Policy Rec 13 of the Local Plan and would have a detrimental impact on the living conditions of nearby residents in terms of noise and disturbance.

The decision letter was attached to the report.

**Decision**

That the outcome of the appeal be noted

**135. Appeal by Mr Griffiths, 143 York Road, Hartlepool** (*Assistant Director (Planning and Economic Development)*)

Members were advised that an appeal had been lodged against the refusal of the Committee to allow the change of use of the property to a hot food takeaway.

The appeal was decided by written representation and allowed by the Planning Inspectorate. The Inspector decided that there are no grounds to conclude that the proposal would materially affect the free flow of traffic or highway safety and would be unlikely to cause an undue level of disturbance for nearby residents so that it would not conflict with the relevant provisions of Local Plan policies GEP1, Com 5 and Com 12.

The decision letter was attached to the report.

**Decision**

That the report be noted.

**136. Appeal – 5 Mayflower Close** (*Assistant Director (Planning and Economic Development)*)

Members were advised that an appeal had been lodged against the refusal of the Local Planning Authority to grant planning permission for the erection of apartments at Mayflower Close. The appeal was to be decided by written representations and authority was requested to contest the appeal.

**Decision**

That authority be given to officers to contest the appeal.

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

Members were advised that during the four week period prior to the meeting forty three (43) planning applications had been checked. Thirty two (32) had required site visits resulting in various planning conditions being discharged by letter.

Member attention was drawn to 13 current ongoing issues detailed in the report.

**Decision**

That the report be noted.

**138. Rear of 23-32 Ashwood Close, Hartlepool** (*Assistant Director (Planning and Economic Development)*)

In December 2005 planning permission was granted for the incorporation of land into curtilages of properties to the rear of 23 to 32 Ashwood Close. A condition was attached requiring a detailed scheme of landscaping, tree and shrub planting to be submitted to and approved by the Local Planning Authority.

This item was brought to member's attention through the complaints update of 5<sup>th</sup> July 2006 as respective residents had failed to discharge the condition. Further to consultation with the Council's Arboricultural Officer and subsequent site visits it was concluded that taking into account existing planting in the locality it would not be expedient to enforce residents to comply with the condition.

### **Decision**

That planning condition No. 2 of H/2005/5809 not be enforced.

### **139. Information – Illegal Burning of Materials on the Longhill and Sandgate Industrial Estates, Hartlepool** *(Assistant Director (Planning and Economic Development))*

Intermittently over recent years a number of fires had occurred within the cartilage of a number of units on the Longhill and Sandgate Industrial Estates. Following consultation with the Cleveland Fire Brigade it was apparent that a number of the fires had been started deliberately by the occupiers of the industrial units in question to burn waste materials.

The Council has organised, and are leading, a multi-agency strategy approach to this problem, involving the following:

- Cleveland Fire Brigade
- Cleveland Police
- Neighbourhood Action Team (HBC)
- Environmental Standards (HBC)
- Development Control (HBC)
- Economic Development (HBC)
- Environment Agency
- New Deal for Communities

The agreed strategy had been designed to increase surveillance in the area in order to reduce the number of deliberate fires. Details of the agreed procedure sequence were given in the report. All residents groups in the area had been formally contacted and made aware of the new multi-agency approach as had the occupiers of every unit on the estates concerned. They were advised of the intentions of the Council and their partners to prosecute or take enforcement action where justified.

The role of Development Control section would be to check for breaches of planning control. Should any breaches be found and formal enforcement considered necessary the matter would be reported to Planning Committee for consideration.

### **Decision**

That the report be noted..

## **140. Planning Applications** – Assistant Director (Planning and Economic Development)

The following planning application was submitted for the Committee's determination and the decision is indicated as follows:

<b>Number:</b>	H/2007/0059
<b>Applicant:</b>	Mr T Walker BLAKELOCK GARDENS HARTLEPOOL
<b>Agent:</b>	Mr T Walker WOODBURN LODGE BLAKELOCK GARDENS HARTLEPOOL
<b>Date received:</b>	19/01/2007
<b>Development:</b>	Application for a certificate of lawfulness for proposed development comprising the erection of a boundary fence gate and pillars
<b>Location:</b>	WOODBURN LODGE BLAKELOCK GARDENS HARTLEPOOL
<b>Representations:</b>	The Committee considered written representations in relation to this matter
<b>Decision:</b>	<b>Certificate of Lawfulness granted for the following reason</b>

1. The proposed fence, pillars and gate are considered to comprise a means of enclosure that would be permitted development under the terms of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995.

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## **141. Enforcement Action – The Brus Arms Public House, West View Road, Hartlepool** – Assistant Director (Planning and Economic Development)

### **Purpose of the report**

To recommend that members agree to enforcement action should this be required in respect of the untidy condition of The Brus Arms Public House, West View Road, Hartlepool, by way of issuing a Section 215 Notice.

### **Issue(s) for consideration**

Members were advised that the Brus Arms public house closed down in 2006 and the vacant site had since fallen into a state of disrepair. The general untidy appearance of the former public house and associated outbuildings was having an adverse impact upon the amenity and general appearance of the street scene.

Under Section 215 of the Town and Country Planning Act 1990 the Borough Council have the power to require the proper maintenance of land and buildings where it is considered that the condition 'adversely affects the amenity of the area'. The Notice must specify the steps that need to be undertaken to abate the harm to the amenity of the area and the period within which they are to be taken.

Members considered that a Section 215 Notice should be issued, with the proviso that if no action were taken within the prescribed time demolition of the building should be considered as an option.

### **Decision**

That in the event that the site owner will not agree to voluntarily undertake remedial actions the Development Control Manager, in consultation with the Chief Solicitor be authorised to issue a section 215 notice requiring the landowner to undertake the following steps to abate the harm that is being caused to the amenity of the area within a period of three months from the date the notice takes effect:

- Retile the roof of the former public house and the roof of each of the associated outbuildings using a suitable roof tile to match the remaining existing tiles
- Paint the boards currently used to secure windows and doors using a suitable colour to match existing materials
- Secure all broken windows
- Secure the broken windows and doorway access to the associated outbuildings
- Clear all debris and litter from within the associated outbuildings
- Block access to the rear yard area and outbuildings
- Clear the site in its entirety of all debris, litter and dumped items
- Remove all remaining signage and lettering from the building

That in the event that officers are satisfied that demolition in whole or part is a reasonable option that this course of action be pursued as an option to remedy the situation.

**142. Enforcement Action – Land to the rear of 48-50 The Front, Seaton Carew** – *Assistant Director (Planning and Economic Development)*

**Purpose of the report**

To recommend that members agree to enforcement action should this be required in respect of the untidy condition of an area of land to the rear of 48 - 50 The Front, Seaton Carew, by way of issuing a Section 215 Notice.

**Issue(s) for consideration**

Members were advised that the Local Planning Authority was concerned by the untidy appearance of an area of enclosed privately owned land to the rear of 48 – 50 The Front, Seaton Carew. The site was not secured, as the gates and sections of the boundary fence had been badly damaged, significant amounts of litter and debris had been deposited on the site and vegetation was overgrown and unkempt. The general untidy appearance of the site was having an adverse impact upon the amenity and general appearance of the street scene.

Under Section 215 of the Town and Country Planning Act 1990 the Borough Council have the power to require the proper maintenance of land and buildings where it is considered that the condition 'adversely affects the amenity of the area'. The Notice must specify the steps that need to be undertaken to abate the harm to the amenity of the area and the period within which they are to be taken.

Given that the owner of the site has not taken any suitable steps to secure or halt the deterioration of the land and given the proximity of neighbouring residential properties, it is considered expedient in the public interest for the Council to seek a satisfactory resolution to the problem. Discussions have not taken place with the owners but to avoid unnecessary delays it is considered expedient to secure Member agreement to enforcement action should this prove necessary.

Members considered that a Section 215 Notice should be issued if necessary.

**Decision**

That in the event that the site owner will not agree to voluntarily undertake remedial actions the Development Control Manager, in consultation with the Chief Solicitor be authorised to issue a section 215 notice requiring the landowner to undertake the following steps to abate the harm that is being caused to the amenity of the area within a period of three months from the date the notice takes effect:

- Remove from the site in its entirety, all litter, waste and other debris

- Remove from the site in its entirety all gas canisters
- Reinststate the sections of the boundary fence, which are in a poor state of repair, using materials, design and height to match the existing fence
- Remove all bread crates and other debris from the boundary fence
- Reinststate a secure gated access to the site
- Cut back all vegetation on site to a height not exceeding 5cm and ensure that the vegetation does not exceed this height hereafter.

**143. Enforcement Action – 50 The Front, Seaton Carew –**  
*Assistant Director (Planning and Economic Development)*

The Development Control Manager requested that members note the complaint but that a decision be deferred for consideration at a future meeting when the views of the Planning Working Party are available. This was agreed by Members.

**144. Enforcement Action – 107 Merlin Way, Bishop Cuthbert, Hartlepool –**  
*Assistant Director (Planning and Economic Development)*

**Purpose of the report**

To recommend that members agree to enforcement action should this be required in respect of the unauthorised erection of a fence to the rear of 107 Merlin Way, Bishop Cuthbert, Hartlepool, by way of issuing an enforcement notice.

**Issue(s) for consideration**

Members were advised that in July 2006 a formal complaint was made to the Local Planning Authority regarding the alleged unauthorised erection of a fence to the rear of 107 Merlin Way. Following a site visit by officers it was confirmed that a fence had been erected to form the rear curtilage boundary treatment of 107 Merlin Way.

The fence in question is 2m 23cm in height and as such required the benefit of planning permission. Planning permission had not been applied for and the unauthorised fence had not been removed or reduced in height.

Under Section 172 of the Town and Country Planning Act 1990 the Borough Council have the power to issue an enforcement notice with respect to a breach of planning control

Given the nature of this breach of planning control and the proximity of



neighbouring properties, it was considered expedient in the public interest for the Council to seek a satisfactory resolution to the problem. Further discussions with the owners were proposed in order to obtain a satisfactory resolution, but to avoid unnecessary delays it was considered expedient to secure Member agreement to enforcement action should this prove necessary.

### **Decision**

That in the event that the site owner will not agree to voluntarily undertake actions to rectify this breach of planning control, the Development Control Manager, in consultation with the Chief Solicitor, be authorised to issue an enforcement notice requiring the owner(s) of 107 Merlin Way to reduce the height of the fence in question to a maximum of 2 metres, three months from the date any Notice takes effect.

ROB COOK

CHAIRMAN

**No:** 1  
**Number:** H/2006/0755  
**Applicant:** Mr K Hair 4 Burnhope Road Hartlepool TS26 0QQ  
**Agent:** Jacksonplan Limited 7 Amble Close Hartlepool TS26 0EP  
**Date valid:** 09/10/2006  
**Development:** Outline application for the erection of 4 detached houses with detached garages  
 (AMENDED APPLICATION AND PLANS RECEIVED)  
**Location:** EDEN PARK SELF DRIVE HIRE SEATON LANE  
 HARTLEPOOL

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## Proposal

1.1 This application was deferred at the previous meeting to allow time for further information to be provided.

1.2 Outline permission is sought for the erection of four detached dwellings on land to the north of Seaton Lane, Seaton Carew. Consent is sought for access and siting details with design and appearance of the dwellings and landscaping of site to remain as reserved matters. The site is currently used as a commercial vehicle hire depot. Each of the four dwellings would be accessed via individual driveways onto Seaton Lane. An amended plan has been submitted showing two of the dwelling plots handed and driveway access points repositioned in order to minimise disturbance to highway trees. The position of one of the driveways would however necessitate the removal of one tree of a group in the highway verge. A replacement tree is proposed.

1.3 The site is roughly rectangular in shape. To the north is the Sovereign Park industrial estate. Land to the east and west forms part of a landscape buffer. A little to the west of the site is an isolated pair of semi-detached dwellings. Several detached dwellings front onto the south side of Seaton Lane.

## Planning History

1.4 The site has been subject to two previous applications for residential development, both of which were refused and subject to appeals, which were later dismissed. Most recently in December 2005 planning permission was refused for the construction of 16 flats. The Inspector considered that the development would not relate well to the industrial land to the north and would either unduly constrain the development of the industrial land or result in significant harm to the living conditions of future occupiers of the flats as a result of noise and disturbance. He also concluded that the presence of highway trees adjacent to the site would make it difficult for drivers leaving the site to see and be seen by drivers proceeding in an easterly direction along Seaton Lane. As such there would be an adverse effect on highway safety.

1.5 More recently in November 2006 the Local Planning Authority granted planning permission for 82 new dwellings on land at the former Golden Flatts Public House and adjacent land at Seaton Lane.

1.6 This permission was granted subject to a planning agreement which involved the imposition of constraints on a nearby industrial land user occupying an area immediately to the south of that site. The constraints required that future users of the industrial building be restricted to light industrial uses or the existing use only and that any industrial processes are carried out within the building and then only when the doors to the building are closed. These constraints were imposed in the interests of protecting the amenities of nearby residents.

1.7 On 17 March 2006 the Committee refused outline planning permission for a residential dwelling on land to the rear of 65 Seaton Lane. As with the previous case the site borders industrial land to the south. However Members may recall that this proposal was later allowed by an Inspector following an appeal.

1.8 In that case the Inspector considered that the amenities of residents of the proposed dwelling could be protected from industrial noise through appropriate noise attenuation measures.

### **Publicity**

1.9 The application has been advertised by way of neighbour letters (9). To date, there have been four letters of no objection. Various supporting comments have been made including that the proposal would remove the only commercial property in Lower Seaton Lane and, therefore that it would enhance the approach into Seaton Carew. Residents have been reconsulted on the latest amendments for the plot layouts.

The period for publicity expires before the meeting.

### **Consultations**

1.10 The following consultation replies have been received:

**Highway Engineer** – No objections. Vehicles able to leave in forward gear. Presence of highway trees would not be sufficient to cause objection. Appropriate method for installing crossing should be used to avoid damage to tree roots. A streetlight may need to be relocated. Redundant site access and exit should be reinstated as footpath at applicant's expense.

**Northumbrian Water** – No objections

**Head of Public Protection** – Objects on grounds that any development would seriously constrain the development of the adjacent industrial estate. Raises concerns about the potential impact of industrial noise and questions the effectiveness of an acoustic barrier in this situation.

**Engineering Consultancy** – Condition required to secure land remediation if found to be necessary.

**Arboriculturist** – Considers the roots of highway trees will be adversely affected by the proposed development. Considers there is no benefit in terms of soft landscape gain. No space for replacement tree due to service trenching.

## Planning Policy

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

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

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

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

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

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

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

Ind4: States that this land is reserved for higher quality industrial development. Proposals for business development, and for those general industrial and storage uses which do not significantly affect amenity or prejudice the development of adjoining land, will be allowed where they meet the criteria set out in the policy. Travel plans will be required for large scale developments.

### **Planning Considerations**

1.12 The main issues for consideration in this case are housing land supply, the potential constraining effect of the proposed development on the future development of the Sovereign Park Industrial estate to the north; the impact of industrial development on the amenities of future residents; the impact of trees on driver visibility and highway safety and the effects of the development on the well being of the trees themselves.

#### Housing land supply issues

As this is a small previously used windfall site it is considered that the proposed development would not conflict with policy in the Local Plan regarding the management of housing land supply in the Borough.

#### Constraining effect of the development on industry and implications for residential development

1.13 Applications for residential development on this site were twice previously refused on grounds that the proximity to the nearby Sovereign Park industrial site would either constrain development there or would result in detriment to the living conditions of local residents.

1.14 The nearby Sovereign Park Industrial estate is substantially undeveloped at present however is a longer term allocation within the adopted local plan where it is recognised as a potentially suitable location for B1, B2 or B8 industrial development, B2 and B8 uses subject to a constraint about possible impact on neighbouring uses.

1.15 It is considered that notwithstanding an intervening landscape buffer that previous refusal reasons remain relevant.

1.16 Residential development on the north side of Seaton Lane is extremely limited, with only a single pair of semi detached properties remaining to the west of the site. Much of the land immediately to the north of Seaton Lane has been subject to substantial landscaping work.

1.17 In his decision letter dismissing the most recent application for residential development on the site, the Inspector concluded that notwithstanding a small number of isolated dwellings further residential development would be inappropriate in this location. He said that although the main focus of the Local Plan was to encourage Use Class B1 i.e. offices / light industry on the adjacent industrial estate, the proposed development may hinder otherwise acceptable proposals for development within Use Classes B2 and B8 on land to the north of the site. The

Inspector observed that a grassed mound adjoining the northern boundary of the site would not be sufficient in height to serve as an effective noise barrier.

1.18 In support of the current application the applicant states that it is important to consider that there has now been a more relevant appeal decision concerning land to the rear of 65 Seaton Lane. As mentioned earlier in the report, in that case an Inspector found a proposal for residential development to be acceptable. The site in question is adjacent to an existing industrial area. It is also adjacent to the site of a larger residential development proposal referred to in paras 1.5 – 1.6 of this report. The inspector referred to a noise assessment that had been provided in relation to this larger scheme in concluding that it would be possible to incorporate certain design measures to attenuate noise intrusion. Such measures could include an acoustic fence and glazing.

1.19 In spite of the applicant's representations on the comparability of the current application and the 65 Seaton Lane proposal, there is considered to be an important distinction between the two sets of circumstances.

1.20 The Inspector had decided to allow the 65 Seaton Lane appeal in the knowledge that a nearby industrial site was at that time likely to have been capable of being re-used by a B2 general industrial occupier. Whilst the planning agreement relating to the larger residential development to the west would secure control over the type of user and manner of use of the industrial building in question in the interests of residential amenity there was no certainty that the agreement would have been concluded when the appeal decision was given.

1.21 The permission for the dwelling at the rear of 65 Seaton Lane would not in itself have constrained the use of the nearby industrial building for general industrial purposes as such uses were already permissible there. Therefore in allowing the appeal, the development would not have constrained the industrial use of land in the way that granting planning permission on the present application site is considered to in relation to Sovereign Park.

1.22 Following the appeal decision at 65 Seaton Lane the planning agreement was confirmed in relation to the larger residential site to the west. The effect of this is to constrain the use of the nearby industrial site (see paras. 1.5 – 1.6 earlier in the report). However the distinction in that case was that the industrial site owner (also the land owner of the proposed housing site) had voluntarily entered into such an agreement whereas in the present case the future developers and users of Sovereign Park and their requirements are as yet unknown and have no interest in the proposed housing development.

1.23 Notwithstanding the appeal decision at 65 Seaton Lane it is considered that there is insufficient reason to depart from the views of the previous Inspector considering residential development on the current application site in that it would result in significant harm to the living conditions of future occupiers by reasons of noise and general disturbance. The Head of Public Protection continues to raise concerns about the proposed development.

## Highway safety

1.24 The driveways providing access to the proposed dwellings would be positioned adjacent to or between highway trees. There would therefore be some obstruction to the visibility available to drivers emerging from the site and in terms of being seen by drivers on Seaton Lane. However the level of traffic generated by the proposed dwellings is considered likely to be no worse and probably an improvement on that associated with the current commercial vehicle hire operation and less than envisaged from 16 flats. Provision would also be made for turning space within each of the plots allowing vehicles to enter and leave the site in forward gear. Taking this into account highway engineers considered it would be difficult to resist the development on highway safety grounds.

## Tree protection implications.

1.25 The applicant has submitted a trees survey with the planning application. The survey acknowledges the presence of two groups of trees either side of the development site. It also considers the implications for a line of 6 trees within the highway verge.

1.26 The siting of one of the plots would necessitate the removal of an Ash tree, part of a group situated immediately to the south of the site. This tree is not prominently sited and is regarded as being of low amenity value. It would, however, also be necessary to remove one of the highway verge trees, a Whitebeam, in order to allow for vehicular access to one of the proposed plots. This tree is considered to be prominently sited within the street scene, which cumulatively with the other highway trees serve to enhance visual amenity. Notwithstanding the proposed replacement it is considered that the loss of this tree will be detrimental to the visual amenity of the street scene. Furthermore the Council's arboriculturist considers that the crossing places as shown cannot be achieved without damaging the existing mature street trees. He also considers that there is not space for a replacement tree due to the presence of service trenching.

## Conclusion

1.27 The proposed development is considered to be unacceptable due to its proximity to land allocated for industrial development on Sovereign Park to the north. It would also necessitate the removal of an attractive tree which is considered to be detrimental to the appearance of the street scene and threaten the long term viability of the remaining highway trees in the group.

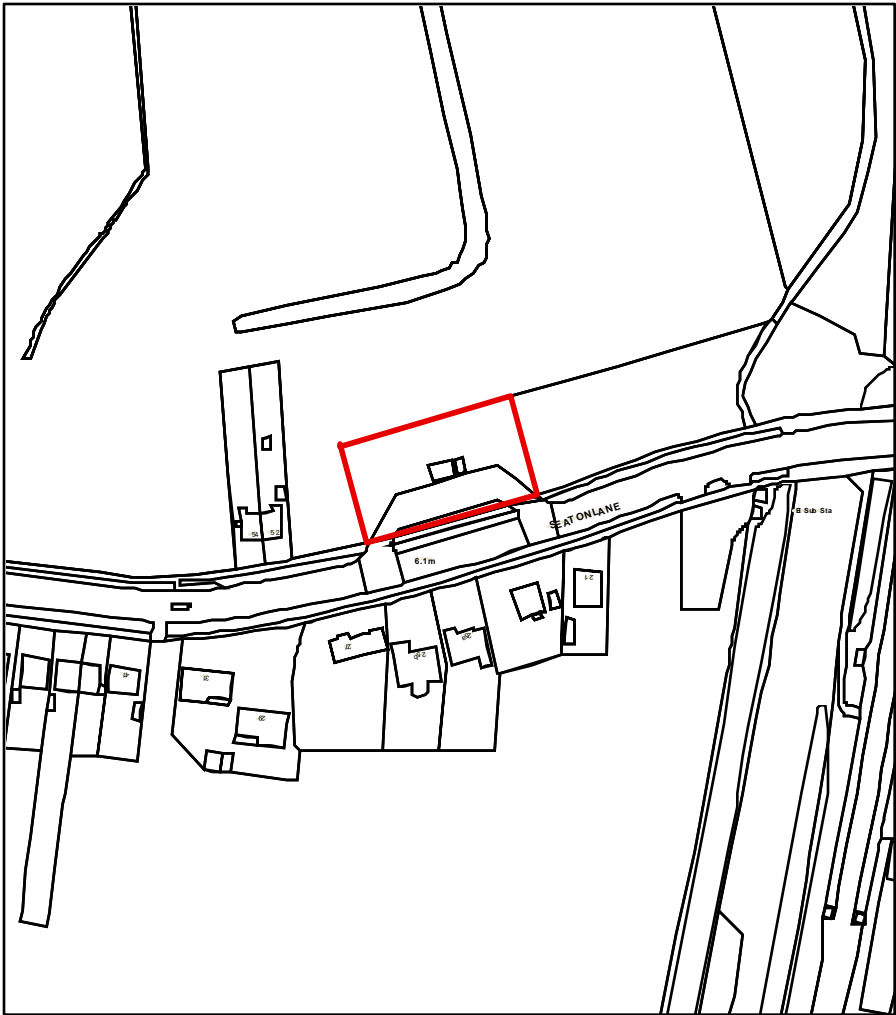
## RECOMMENDATION – Refuse to the following reasons:

1. In the opinion of the Local Planning Authority the proposed development would unreasonably constrain through the need to protect residential amenity the future development of the Sovereign Industrial Park situated to the north of the site contrary to Policy GEPI of the Hartlepool Local Plan 2006.

2. In the opinion of the Local Planning Authority the proximity between the site and the adjacent Sovereign Park Industrial Estate would be detrimental to the amenities of local residents by virtue of noise and general disturbance contrary to policies GEP1 and Hsg9 of the Hartlepool Local Plan 2006.
3. In the opinion of the Local Planning Authority the loss of a highway verge tree in order to enable access to Plot 3 would undermine the cumulative aesthetic value of the adjacent group of highway verge trees to the detriment of the appearance of the street scene contrary to policies GEP1 and Hsg9 of the Hartlepool Local Plan 2006.
4. The proposed vehicle crossing places are considered likely to cause damage to long term well being and stability of the existing mature street trees contrary to policies GEP1 and Hsg9 of the Hartlepool Local Plan 2006.



Eden Park Self Drive, Seaton Lane



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>11/01/07</b>
	SCALE <b>1:1250</b>	
Department of Regeneration and Planning Bryan Hanson House.Hanson Square. Hartlepool TS24 7BT	DRG.NO <b>H/2006/0755</b>	REV

**No:** 2  
**Number:** H/2006/0891  
**Applicant:** Mr Kevin Smart 29 Glentower Grove Hartlepool Cleveland TS25 1DR  
**Agent:** Cad-Link Architectural Services Ltd 26 Mountston Close Hartlepool TS26 0LR  
**Date valid:** 02/01/2007  
**Development:** Demolition of existing property and erection of two detached houses with associated detached garages  
**Location:** 7 HYLTON ROAD HARTLEPOOL

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## Background

2.1 This application was reported to members at the February meeting of the Planning Committee when members resolved to defer consideration of the application in order that they could visit the site. The site visit will take place before the meeting.

## The Application and Site

2.2 The application site consists of a modern detached bungalow. It has gardens to the front and rear and an attached double garage to the south side. The rear garden is enclosed for the most part by a high fence (some 6ft) except for the boundary with 15 The Vale where the fence in part is only some one metre high. To the north, in a slightly elevated position, is a detached two-storey dwellinghouse (5 Hylton Road) which has been extended to the rear through the addition of a conservatory which is set well off the common boundary. To the south is a modern detached bungalow (9 Hylton Road). Opposite on the other side of Hylton Road is a substation and a bungalow which faces Meadow Drive (21) and its enclosed rear garden. Also opposite on the other side of Hylton Road is a dwellinghouse (1a Carisbrooke Road) which has a garden and garage to the rear with access off Hylton Road. To the east at a slightly higher level is a pair of two storey detached residential properties which front onto The Vale (15 & 16) and face the site with their rear elevations. Both have been extended, 15 to the sides including the provision of a side conservatory. Extensions at 16 include the recent addition of a rear conservatory which approaches the site. In the rear garden of 15 is a mature protected Sycamore tree, there is another smaller tree, which is not protected, in the garden of the adjacent property (14 The Vale).

2.3 It is proposed to demolish the bungalow and erect in its place two detached two storey 4 bedroomed dwellinghouses one with a detached garage. The houses will be finished in brickwork with artstone detailing and a tiled roof. The main elevations of the houses will be set back from Hylton Road some 5.5m (excluding projecting bays). The closest parts of the houses will be sited some 1.3 to 2m further from the rear boundary than the existing bungalow. Vehicular access will be taken from

Hylton Road with drives alongside the houses. The garage will be located in the north east corner of the site at the termination of the access drive.

2.4 The proposals now before members have been amended twice. The original plans showed a two and a half storey dwelling on the northern most plot with a rear dormer. The latest amendments show a two storey dwelling on this plot, without dormer, set further forward (west) on the site. The overall height of the proposed house, measured to its ridge, has been reduced from some 9.3m to some 7.65m. In relation to the proposed house on the southern most plot its garage has been omitted and its utility room has been reduced.

### Publicity

2.5 The original application was advertised by site notice and neighbour notification (7).

Seventeen representations were been received. All object to the proposal. The objectors raised the following issues:

1. Loss of light.
2. Loss of outlook
3. Loss of privacy.
4. Developer has failed to show impact of development on the environment nor addressed issue of overlooking/overshadowing.
5. Overdevelopment, high density , Plot too small for 2 detached houses and hence they will be out of keeping with the area.
6. Out of keeping/character/Does not compliment high standards of the existing area.
7. Too large and high. A two and a half storey/three storey house would be out of proportion to all other houses in area.
8. Forward of building line.
9. Area is a rich mix of old and new on good sized plots the proposal would not enhance the area.
10. Another monstrosity like the one built to the rear of 11 The Vale.
11. Will set precedent for similar proposals.
12. Loss of bungalows and potential future shortages for elder people/ Loss of housing mix.
13. Noise from activities.
14. Traffic problems during construction/demolition, Busy road and site on a blind bend.
15. Discrepancies in Design and access statement.
16. Damage to roots of protected tree which may cause it to fall.
17. Loss of evergreen shrubs in front garden.
18. Property is not derelict and has been improved in past.
19. Heights of 5 and 9 Hylton Road should be shown on drawings.
20. The roof of the proposed two and a half storey house is fifty percent higher than 5 Hylton Road.
21. No assessment of increase in sewage/potential for sewage problems.

22. Two new driveways will be required. Increased traffic movements/on street parking/conflict with neighbours garage access across road. Access for fire engine.
23. Plans don't reflect reality on the ground urge members to visit the site.
24. The plans are not accurate

Amended plans were received and were advertised by neighbour notification (14).

Thirteen representations have been received all objections. One representation was also received from the owner of the site advising he had no objections to the proposal. The objectors raised the following issues.

- 1) The garage access serves 1a Carisbrooke Road and not 21 Meadow Drive.
- 2) Two carriageway crossing not one, as stated by Traffic & Transportations, will be required.
- 3) Loss of light.
- 4) The amended plans fail to show the height of the proposed new build.
- 5) High density, Overdevelopment and overcrowding.
- 6) Access will be directly opposite access to 1a Carisbrooke Road and will cause problems.
- 7) Previous objections apply.
- 8) Accuracy of amended plans questioned. They should be checked.
- 9) Amended plans show a utility room opposite 15 The Vale which is not confined to the 20 metre limit.
- 10) Proximity of garage to tree.
- 11) The roof of the proposed house adjacent to no 5 still much higher than adjacent houses. The roofspace is still high enough to accommodate a dormer and higher than the second dwelling. Once the house is built a loft conversion will be undertaken/dormer added.
- 12) Builder might raise roof during construction.
- 13) Conservatory of 16 The Vale is well within 20 metre limit.
- 14) Loss of privacy
- 15) Sewage capacity.
- 16) Bungalows for elderly needed. Mixed housing important.
- 17) Precedent.
- 18) Covenants may apply.
- 19) Building line, both houses further forward than bungalow.

Since the application was last considered by Committee further amended plans have been received and have been advertised by neighbour notification (14). The time period for further representations expires on 19<sup>th</sup> March 2007. At the time of writing no further representations had been received. Any further representations received will be the subject of an update report or tabled at the meeting.

Copy letters **H**

## Consultations

2.6 The following consultation replies have been received:

**Northumbrian Water** - No objections. Foul and surface water sewers available to discharge to.

**Engineering Consultancy** - A section 80 notice under the Building Act 1984 will be required to be submitted to the Council relating to the proposed demolition.

**Traffic & Transportation** - A carriage crossing will be required for one of the garages, otherwise there are no major highway implications.

## Planning Policy

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

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

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

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

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

## Planning Considerations

2.7 The main planning considerations are Policy, impact on the amenity of neighbouring properties, impact on the visual amenity of the area/street scene, highways, trees and drainage.

## POLICY

2.8 The site is in an established residential area within the limits to development and in policy terms the proposal is considered to be acceptable. Objectors have raised concerns in relation to the loss of the bungalow, the erosion of the housing mix and the fact that development may set a precedent for further redevelopment of similar sites. It is the case that the Urban Housing Capacity Study (May 2002) acknowledged a shortage of bungalows as an issue in the Hartlepool Housing Market however it also identifies a shortage of larger executive 4/5 bedroom dwellinghouses. The proposed Housing Market Assessment anticipated by Spring 2007 should give greater quantitative clarity to this issue. It is not considered in any case that the loss of a single bungalow would significantly affect this situation. In terms of the issue of precedent each case should be considered on its own merits.

## IMPACT ON THE AMENITY OF NEIGHBOURING PROPERTIES

2.9 The application site is bounded to the north, east and south by residential properties. It is considered that in terms of residential amenity it is these properties which would be most directly affected by the proposal. Objections have been received from these neighbouring properties. The applicant has twice amended the original proposal, which showed a 2.5 storey house on the northern most plot, and the views of the neighbours on the latest amendments are currently awaited. The proposal is now for the provision of two two-storey dwellinghouses.

2.10 In relation to the property to the north, 5 Hylton Road, the closest proposed house will be gabled ended onto this property and will be sited gable to gable some 2.7m off the common boundary. This neighbouring property has its main windows facing east and west and given this orientation the light to, and outlook from, these windows should not be affected by the new house. The part of the neighbour's house most affected by any loss of light will be the facing gable. This is largely blank with only a high level obscure glazed garage window facing the site and as this does not serve a habitable room, and is very much a secondary window, any loss of light to this window is not considered significant. The neighbour also has a rear conservatory, however it is set well back off the boundary and will already be subject to a degree of overshadowing from the owner's own house as the sun passes the gable. Whilst there may be an additional effect from the proposed adjacent house given the relative position of the neighbour's house and the new house it is not considered that it will unduly affect the existing light enjoyed by the conservatory. It is considered that there may well be some additional loss of afternoon light to the decking and garden area however this would only be for part of the day and it is not considered that this would affect the enjoyment of the garden/decking to such an extent as to warrant refusal of the application. A first floor bathroom window and ground floor door face the neighbour's gable both are shown to be obscure glazed. This type of side to side relationship is a common one and it is not considered that the proposal as amended will unduly affect the neighbouring property in terms of loss of light, privacy outlook or any overbearing effect. The proposed garage will be

located on the southern boundary of the neighbours property, however it will be located towards the end of the garden and most directly affect only part of the garden rather than the house. In any case it will have a hipped roof and given its small size and the partial screening already afforded by a boundary fence and trees/bushes rising to a similar height on the neighbours side it is not considered that it will unduly affect light towards the end of the garden or unduly affect this neighbour in terms of loss of light, outlook or in terms of any overbearing effect.

2.11 In relation to the property to the east / north east, 16 The Vale, the separation distances between the principal elevation of the closest proposed house and this neighbour will range from some 20.2 to 21.8m, this more than meets the guideline of 20m specified in the Local Plan. The occupier of number 16 The Vale has pointed out that his conservatory will be closer to the development and indeed the drawings show that the conservatory will be some 17.5 to 18m from the principal rear elevation of the proposed house. The guidelines refer to principal elevations and not extensions and so it is not considered that this relationship would fall foul of the guidelines. It is not considered to be an unusual relationship when a conservatory has been added to project towards an adjacent property. Any overlooking will be from bedroom windows which would not normally be occupied during the day when the conservatory might be more likely to be in use, whilst at night the bedroom window would normally be drawn. The distance of the proposed house to the rear garden boundary is some 10 to 11m and this is considered acceptable. The proposed house is set further back from the neighbour than the existing bungalow and it might be noted the neighbour's property overlooks and has a closer physical relationship with the bungalow than is proposed with the new house. It is not considered that the proposal would unduly affect the privacy of this neighbour. It is likely that there would be some loss of late afternoon light to this property particularly in the Spring/Summer/Autumn but for most of the day the effect will be limited. Notwithstanding the additional overshadowing this neighbour experiences due to the adjacent mature tree it is not considered that any loss of light due to the development would be so severe as to warrant refusal of the application. It is considered given the physical relationship, the separation distances and the fact that this property is in fact set slightly higher, some 700mm than the application site that the proposed houses would not unduly affect this property in terms of loss of light, outlook, privacy or in terms of any overbearing effect. The garage of the closest property will be located close to the boundary however given the differences in levels and the high fence on the boundary between the two sites again it is not considered the garage will unduly affect this property in terms of loss of light, outlook or in terms of any overbearing effect.

2.12 In relation to the other property to the east/ south east, 15 The Vale the amended proposals show that the separation distances between the principal elevation of the closest proposed house and this neighbour will range from some 20m to 21.8m. The proposed house therefore will meet or exceed the 20m guide and this is considered acceptable. The proposed house is set further back from the neighbour than the existing bungalow and again it might be noted that the neighbours property overlooks and has a closer physical relationship with the bungalow than is proposed with the new house. The distance from the closest proposed house to the rear garden boundary is some 9.5 to 11m and this is considered acceptable. It is not considered the proposed development will unduly

affect the privacy of this neighbour. It is likely that there would be some loss of late afternoon light to this property particularly in the Spring/Summer/Autumn but for most of the day the property should be unaffected. Notwithstanding the additional overshadowing this neighbour experiences due to the mature tree in its garden, it is not considered that any loss of light due to the development would be so severe as to warrant refusal of the application. The boundary with this property is currently in part defined by a low fence and in the interest of preserving the privacy of both properties an appropriate boundary treatment i.e. a 6ft fence could be conditioned. It is concluded that given the proposed condition, the physical relationship, the separation distances and the fact that this property is in fact again set slightly higher than the application site that the proposed houses would not unduly affect this property in terms of loss of light, privacy, outlook or in terms of any overbearing effect.

2.13 In relation to the bungalow to the south (9 Hylton Road) the closest proposed house will be gable ended onto this property and will be sited gable to gable some 2.7m off the boundary. Given the fact that the bungalow is located to the south the proposal will not unduly affect light to the bungalow. The bungalow faces the site with a blank gable and has its main windows facing east and west and given this orientation the outlook from, these windows should not be greatly affected by the new house. The only window proposed facing the neighbour will be a ground floor utility room window set well off boundary. This type of side to side relationship is a common one and it is not considered that the proposal as amended will unduly affect this property in terms of loss of privacy, outlook, light or overdominance.

2.14 Whilst there are properties on the other side of the road, notably 21 Meadow Drive and 1a Carisbrooke Road, given the physical relationship in particular the separation distances involved it is not considered that the development would unduly affect these properties in terms of loss of outlook, light, privacy, or in terms of any overbearing effect.

2.15 A number of the objectors have raised concerns that the roof space of the northern most property might be converted into habitable rooms and even a dormer window added. Under the provisions of the Town & Country Planning (General Permitted Development Order) 1995 the applicant, or a future owner could on completion of the house, subject to various constraints in relation to size/design/location of any alterations convert the loft and add a dormer window or roof lights without the necessity of first obtaining planning permission. Those permitted development rights apply to all dwellinghouses unless they are restricted by a planning condition. The applicant has indicated that he is willing to accept such a condition and in light of this such a condition is proposed. However given the fact that the proposed property meets the required separation distances of twenty metres it is considered it would be difficult to resist a suitable loft conversion proposal should one be received in the future. In the interests of the protected tree, and the amenity of neighbours it is also proposed to impose a condition restricting the provision of extensions and garages/outbuildings.

## IMPACT ON THE VISUAL AMENITY OF THE AREA/STREET SCENE



2.16 The proposal involves the replacement of a single storey bungalow with two two-storey dwellinghouses and clearly this will have a significant impact on the street scene. However the area, whilst attractive, is not a conservation area, and is an area where there is a mix of modern dwellinghouses and bungalows. In fact there are two two-storey dwellinghouses adjacent to the north and to the rear. The existing bungalow is of little architectural merit. The houses at some 7.65m and some 7.5m high, to the ridge, are not unusually high and are of a similar height to the existing two-storey properties in the vicinity. The designs of the houses are satisfactory.

2.17 The dwellinghouses will broadly follow the existing building line. The existing plot is relatively generous with a width of some 25m and a depth of some 22.5 to 26m. There are other large and generous plots in this area, and whilst the two plots will be smaller than the largest plots, at 12m and 13m wide they are comparable in width with some of the neighbouring plots notably 1 Hylton Road (12m), 3 Hylton Road (14m), 3a Hylton Road (11m) and 5 Hylton Road (15m). Certainly if one continues south around Hylton Road a little way the plots (28 to 44) become narrower ranging in width from 10 to 11m. It is also the case that the proposal leaves a drive width to the sides whilst dwellings on other plots notably 5 Hylton Road, extend at two stories across much of the plot arguably appearing more cramped than the proposed development would.

2.18 It is not considered that the proposal will appear unduly cramped or intrusive in the street scene or that two additional dwellinghouses would appear out of place. It is not considered that the proposal will detract from the visual amenity or character of the area or the street scene.

## HIGHWAYS

2.19 Concerns have been raised by objectors in relation to the increase in traffic and on street parking which might be generated by the development. Objectors have also suggested that the development might affect access for emergency or other large vehicles. A neighbour with a garage/access opposite one of the proposed dwellings and who tends to reverse, is concerned that his manoeuvring will be affected by parked vehicles. Another has raised concerns at the proximity of a blind corner. It is undoubtedly the case that two dwellinghouses will attract more traffic and on street parking than a single bungalow. However each of the dwellinghouses accommodates more than adequate parking for dwellinghouses of this size. On a large housing estate any increased vehicle movements should not be significant and it is not considered that the development would affect access for emergency or other large vehicles. In relation to concerns at vehicular conflict with the access to the neighbour's garage opposite, for domestic accesses to face each other across a street is not unusual, and given the level of use potential conflict is likely to be only occasional. Inconsiderate parking could affect the use of the neighbour's access with or without the proposed development and this issue whilst a potential nuisance would not warrant refusal of the application. Engineers have not objected to the proposal and in highway terms the proposal is considered to be acceptable.

## TREES

2.20 A mature protected Sycamore tree is located in the rear garden of 15 The Vale an unprotected tree is also located in the rear garden of 14 The Vale. Concerns have been raised that the proposal might damage the protected tree and at the removal of small trees in the front garden. The Arboriculturalist has visited the site and concluded that provided the houses do not come closer to the tree than the existing bungalow foundations then the protected trees should be unaffected. The proposed houses are shown located further away from the both trees than the existing bungalow. The Arboriculturalist did recommend that one of the then proposed garages, in the southern most plot, closest to the protected tree be moved forward 3.5m. The applicant has agreed instead to omit the garage from the scheme and the latest amended plans show this. Concerns have also been raised in relation to the removal of small ornamental Juniper and Chamaecyparis trees in the front garden, these are unprotected and could be removed at any time. Whilst it could be argued they enhance the front garden it is not considered that they make such a significant contribution to the street scene that their removal should be resisted, a suitable landscaping scheme can be imposed on any development. Conditions proposed can also remove permitted development rights for garages/outbuildings and extensions so that if a proposal for a garage/extension is brought forward, at a later date, its position and design can be controlled in the interests of the protected trees and neighbours.

#### DRAINAGE

2.21 Concerns have been raised in relation to the impact of the development on the existing drainage system. Northumbrian Water have confirmed that foul and surface water sewers are available and that they have no objections to the proposal.

#### OTHER MATTERS

2.22 Concerns have been raised at noise and disturbance during construction and the impacts of construction traffic on the road network. Clearly there will be a degree of disruption however this will be finite and is the case wherever development is proposed. Engineers have not objected to the proposal. It is not considered that the application could be resisted on these grounds.

2.23 A number of objectors have questioned the accuracy of the plans. The applicant re-surveyed the site and amended the plans as part of the amendments. The amended existing layout plan has been checked by Officers on site, allowing for minor variations which will inevitably occur with the re-measuring of any site, the layout plan is considered to accurately reflect the current situation and relationships with the surrounding properties.

2.24 An objector has raised the question as to whether they might be legal covenants on the site restricting its development. This is essentially a private legal matter between the parties bound by any covenants. Any grant of Planning Permission would not override any such legal restrictions contained in any relevant covenants. If any relevant covenants do exist then it will be a matter for the developer to resolve.

#### CONCLUSION

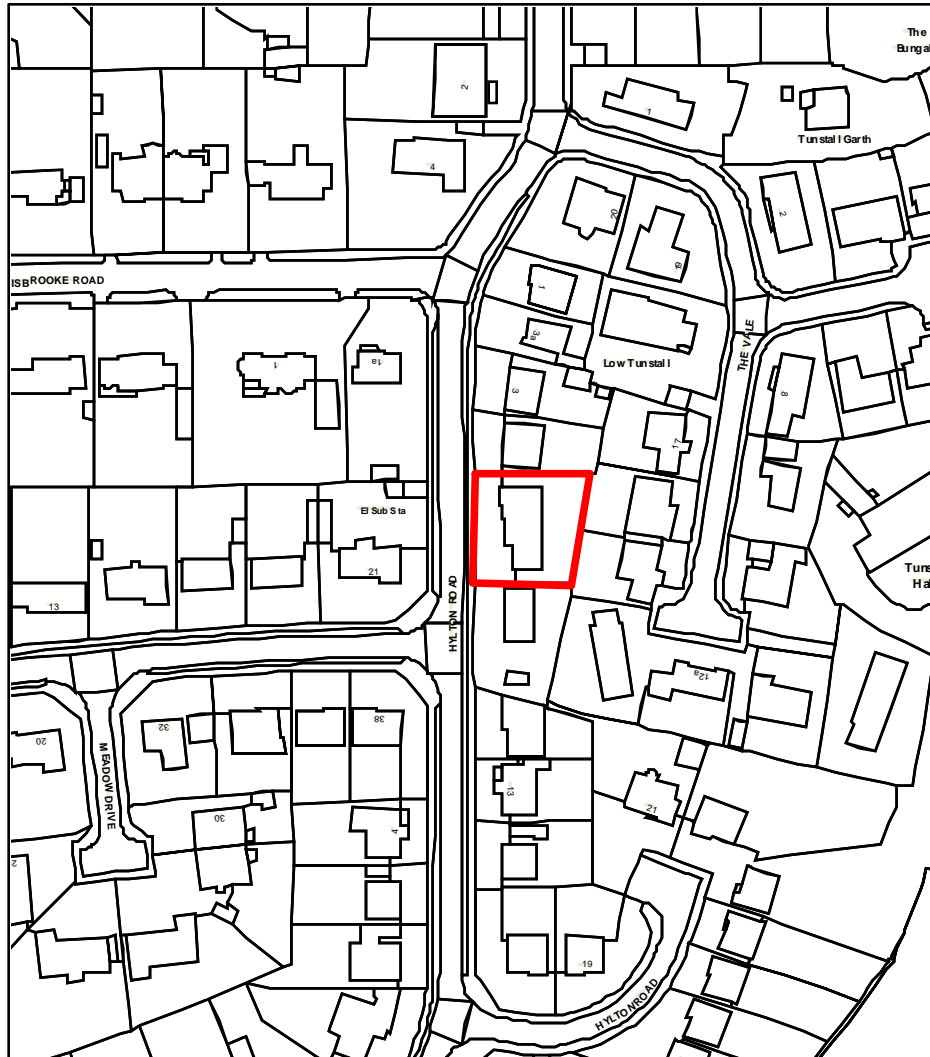
2.25 The proposal is considered acceptable and is recommended for approval

**RECOMMENDATION- APPROVE subject to the following conditions:**

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid
2. The development hereby approved shall be carried out in accordance with plans and details submitted on 2nd January 2007 as amended in relation to the details of the house on the northern most plot by the drawings 006 & 007, in relation to the proposed site layout by the drawing RSL/003 (except in relation to the garage serving the southern most plot which has been omitted from the proposal), in relation to the elevations/plans of the garage by the drawing 008, received at the Local Planning Authority on 6th February 2007, unless otherwise agreed in writing by the Local Planning Authority. (TO BE AMENDED)  
For the avoidance of doubt
3. For the avoidance of doubt the site layout, including the positioning of the houses, shall be in accordance with drawing drawing RSL/003 (except in relation to the siting of the garage serving the southern most plot which has been omitted from the proposal) received at the Local Planning Authority on 6th February 2007, unless otherwise agreed in writing by the Local Planning Authority. (TO BE AMENDED)  
For the avoidance of doubt.
4. This permission does not include the approval of a garage serving the southern most plot which was omitted from the proposal.  
For the avoidance of doubt and to enable the Local Planning Authority to exercise control in the interests of the protected tree on the adjacent site and the amenities of the occupants of the adjacent residential properties.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no garage(s), sheds, pools or other outbuildings shall be erected without the prior written consent of the Local Planning Authority.  
To enable the Local Authority to exercise control in the interests of the protected tree on the adjacent site and the amenities of the occupants of adjacent residential properties.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.  
To enable the Local Authority to exercise control in the interests of the protected tree on the adjacent site and the amenities of the occupants of adjacent residential properties.
7. The loft/roof space of the dwelling(s) hereby approved shall not be converted to habitable rooms.  
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of adjacent residential properties.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no rooflights, windows or dormer windows shall be inserted within or added to the roof of any of the dwelling(s) hereby approved without the prior written consent of the Local Planning Authority.  
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of adjacent residential property.
9. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced. The approved scheme shall be implemented before the occupation of the dwellings.  
In the interests of visual amenity.
10. Details of all external finishing materials, including drives and hardstandings, shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose if required by the Local Planning Authority.  
In the interests of visual amenity.
11. Before the development hereby approved is commenced, the dwellings shall be pegged out on site and their exact location agreed in writing by the Local Planning Authority. The developer shall give 24 hours prior notification of his/her intention to peg out the proposed building on the site for an officer site visit to be arranged to check the setting out.  
In the interests of the amenities of the occupants of neighbouring properties.
12. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.  
In the interests of visual amenity.
13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.  
In the interests of visual amenity.
14. The proposed first floor bathroom and en-suite window(s) in the north facing gables of the proposed houses shall be glazed with obscure glass which shall be installed before the dwellings are occupied and shall thereafter be retained at all times while the window(s) exist(s).  
To prevent overlooking

## 7 Hylton Road



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

<h1 style="text-align: center;">HARTLEPOOL</h1> <h2 style="text-align: center;">BOROUGH COUNCIL</h2>	DRAWN <b>GS</b>	DATE <b>6/2/07</b>
	SCALE <b>1:1250</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2006/0891</b>	REV

**No:** 3  
**Number:** H/2007/0018  
**Applicant:** E.CON UK  
**Agent:**  
**Date valid:** 09/01/2007  
**Development:** Erection of 10 wind turbines with associated anemometry mast, operations control building and substation and underground power cables, alterations and creation of access tracks and temporary construction compound  
**Location:** BUTTERWICK MOOR NORTH OF A689 SEDGEFIELD

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### The Application and Site

3.1 The Local Planning Authority has been consulted by Sedgefield Borough Council in respect of a planning application it has received for a wind farm development as described above.

3.2 This essentially consists of the development of 10 turbines extending to an overall height of 110 metres together with various ancillary works.

3.3 The site comprises an area to the north of the A689 known as Butterwick Moor. It is approximately 3.3 kilometres to the north east of Sedgefield and is immediately next to the area comprising the already consented 'Walkway Wind Farm'. This consented wind farm comprises a development of 7 turbines.

### Publicity

3.4 Because this application is made to an adjoining Local Planning Authority and Hartlepool Borough Council is a consultee in this case, there is no obligation placed on the Local Authority to undertake its own publicity exercise.

3.5 Notwithstanding this a letter of objection along with accompanying information has been received from a group of residents opposing the development, Sedgefield and Wynyard Against Turbines (S.W.A.T.). The residents have asked that this information be shown to Councillors and accordingly it is attached to the report for Members' information.

### Consultations

3.6 The following consultation replies have been received:

**Head of Public Protection** – Supporting information confirms that the proposed wind farm can comply with ETSU guidance. No objections subject to noise limits consistent with ETSU guidance.

**Highway Engineer** – No highway implications

## Planning Policy

3.7 The following policies in the adopted Hartlepool Local Plan 2006 would be relevant to the consideration of this application if the development were located in Hartlepool.

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

Rur20: States that development in this special landscape area will not be permitted unless it is sympathetic to the local rural character in terms of design, size and siting and building materials and it incorporates appropriate planting schemes.

Rur7: Sets out the criteria for the approval of planning permissions in the open countryside including the development's relationship to other buildings, its visual impact, its design and use of traditional or sympathetic materials, the operational requirements of agriculture and forestry and viability of a farm enterprise, proximity of intensive livestock units, and the adequacy of the road network and of sewage disposal. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

PU7: States that renewable energy projects will generally be supported to facilitate the achievement of national targets for electricity generating capacity. In determining applications significant weight will be given to achieving wider environmental and economic benefits. Account will also be taken of the impact on the character of the area, amenity of residents, ecology and radar and telecommunications. A restoration scheme should be submitted.

The emerging Regional Spatial Strategy in Policy 42 identifies the area as a broad area of least constraint for wind energy development.

## Planning Considerations

3.8 The main considerations in this case are the visual impact of the development together with its impact on nature conservation interests.

3.9 The proposed development would be in keeping with national government policy which supports the development of renewable energy projects to meet 10% of the UK's energy need by 2010 and also with the regional aspiration of 20% by 2020.

3.10 The development will be visible from the western boundary of Hartlepool Borough. The turbines will be situated on land some 20-30 metres higher in elevation than Crookfoot area. Whilst this area is classified as a Special Landscape Area, the physical barrier of the woods along the Newton Hazzard / Crookfoot SLA area will

help to reduce its visual impact. The level of visual intrusion will need to be assessed in the context of the already consented Walkway wind farm. A photomontage showing views of how the two sites would appear from the Castle Eden Walkway when fully developed will be displayed at the meeting. This shows the two developments confined to a discrete area of approximately 500metres north – south and this would contain the visual impact when viewed from Hartlepool Borough.

3.12 The Environmental Statement states a range of mitigation measures that will be implemented to ensure that there are no net negative effects on biodiversity including some minor habitat enhancement measures.

3.13 The Council's Ecologist considers that this application will not have a significant effect on biodiversity interests in Hartlepool.

3.14 It is clear that the two wind turbine developments will be visible from Hartlepool. However in the light of the comments above it is considered that it would be difficult to sustain an objection to the proposal on visual amenity grounds. For this reason and national and local policies supporting renewable energy to support national targets for new electricity generating capacity there are no objections to the proposals.

**RECOMMENDATION** - Raise no objections



51334

# S.W.A.T.

Sedgefield & Wynyard Against Turbines.

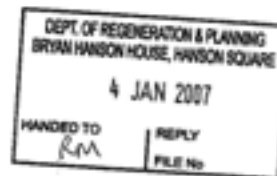
23<sup>rd</sup> December, 2006.

Dear Councillors,

We are a group of local residents who are very concerned about the plans to develop a 10 turbine wind farm east of Sedgefield. As you are probably aware Wind Prospect received planning permission last year for a 7 turbine wind farm on the Castle Eden Walkway. E-on U.K. is proposing their 10 turbine site alongside the walkway wind farm, on Butterwick Moor. This will mean a total of 17, 110 metre high turbines situated on open farmland east of Sedgefield. Whilst we are not opposed to renewable energy we are extremely concerned about the huge impact this development will have on the surrounding countryside.

We have enclosed some information and would be grateful if you could show this to your councillors.

Yours sincerely, S.W.A.T.

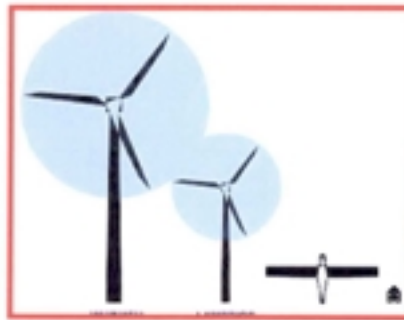
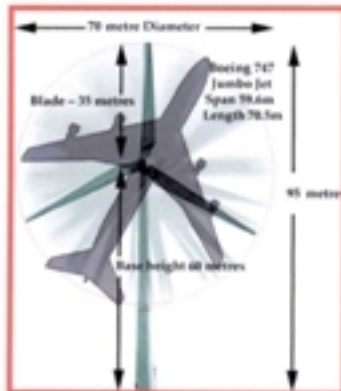


# S.W.A.T.

Sedgefield & Wynyard Against Turbines

## How green are wind turbines?

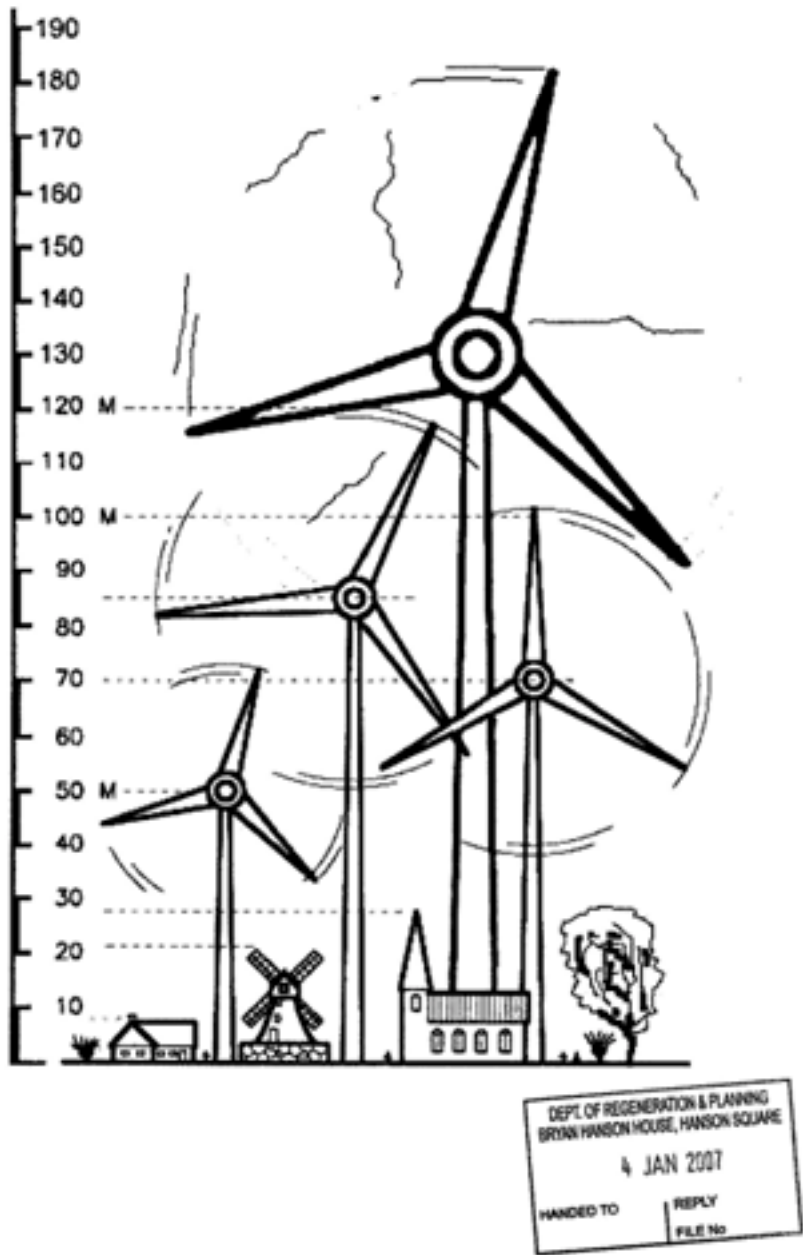
- Did you know Wind Prospect already have planning permission for 7 wind turbines on the Castle Eden Walkway?
- Did you know e.on are proposing to build a further 10 turbines on a neighbouring site at Butterwick Moor?
- Did you know all 17 turbines will measure 110m, base to tip?
- Did you know these turbines will be visible for 20 miles?



- Did you know that a wind turbine only produces 30% of its capacity, making it 70% inefficient?
- Did you know the foundation for each turbine needs 1,000 tonnes of concrete? Cement production is extremely polluting.



For more information please contact [sedgefield.wynyard.at@hotmail.com](mailto:sedgefield.wynyard.at@hotmail.com)  
or call 07867522936 / 07722022732  
or visit [www.countryguardian.net](http://www.countryguardian.net)



**Western Morning News****TV BOTANIST OPPOSED TO WIND FARMS****09:00 - 26 November 2003**

Famed environmental campaigner Professor David Bellamy yesterday backed Noel Edmonds' anti-wind farm campaign, describing them as a "scam".

The botanist, writer and broadcaster is a staunch opponent of wind turbines arguing that they are inefficient, destroy the landscape and that far more could be achieved through energy efficiency.

"My main thing against them is that they can only work, if you are very lucky, for 30 per cent of the time," he said yesterday. "Going by the ones in Denmark it is about 17 per cent of the time.

"So how are people going to be able to boil their kettles, or how are we going to power our hospitals the rest of the time? It means that we have got to keep our other stations running, spinning in reserve, inefficiently and pouring out carbon dioxide and sulphur dioxide and the like."

Prof Bellamy, who has 15 years worth of research on the subject, has successfully opposed a number of proposed sites across the country.

He believes that the amount of taxpayers money ploughed into such schemes make them a "scam" given the scant electrical and environmental benefits they provide. The Kyoto Protocol - the very reason why renewable forms of energy, like windfarms, were being pushed by the Government - was also collapsing, he added.

"If they were producing a decent amount of power I would be backing them," he said. "But if you lagged the roofs of 500 homes it would have the effect of putting up one wind turbine. That is what we should be doing."

He first met Mr Edmonds, who lives at Jacobstowe, near Okehampton, in the 1970s on the Saturday morning television programme The Multicoloured Swap Shop.

But he has praised Mr Edmonds opposition to wind farms which he said also "damaged rural lifestyles and the tourist industry".

"If I wanted to build an executive home in an area of outstanding natural beauty (AONB) I wouldn't be allowed," he said yesterday. "And yet these turbines are 22 storeys high and put on hills where everyone can see them. They also kill birds and bats and need 1,000 tonnes of concrete as well as a road infrastructure. It beggars belief that some environmental groups can say they are 'green'."



**WE ARE A LOCAL GROUP OPPOSING  
THE DEVELOPMENT OF A FURTHER  
10 WIND TURBINES, ON OPEN  
FARMLAND AT BUTTERWICK MOOR.  
THIS SITE IS NEXT TO THE ALREADY  
CONSENTED 7 TURBINE WIND FARM  
UNDER CONSTRUCTION NEAR THE  
CASTLE EDEN WALKWAY.**

**WHILST WE ARE NOT AGAINST  
RENEWABLE ENERGY, WE ARE  
AGAINST THE MASS  
INDUSTRIALISATION OF THE  
COUNTRYSIDE AROUND THE  
VILLAGES OF SEDGEFIELD,  
FISHBURN, TRIMDON AND WYNYARD.**

**IF YOU WOULD LIKE TO SUPPORT US  
OR SIGN A PETITION PLEASE  
CONTACT**

**[sedgefield.wynyard.at@hotmail.com](mailto:sedgefield.wynyard.at@hotmail.com)**

**OR CALL**

**07722022732 / 07867522936**

DEPT. OF REGENERATION & PLANNING BRYAN HANSON HOUSE, HANSON SQUARE	
4 JAN 2007	
HANDLED TO	REPLY
FILE No	

**IF YOU CARE ABOUT THE COUNTRYSIDE,  
READ ON-**

The countryside around the villages of Sedgefield, Trimdon, Fishburn and Wynyard is in danger of industrialisation.

E.ON UK is proposing to build a 10-turbine wind farm at Butterwick Moor alongside a 7-turbine wind farm on the Castle Eden walkway.

We are a group of local residents who, whilst not being opposed to renewable energy, are deeply concerned about this development.

We **OBJECT** to this development on the following grounds:

**VISUAL IMPACT**

In total there will be 17 turbines, 110 metres high (base to tip). They will be three times as high as the nearby electricity pylons which are easily visible from the surrounding villages. (The white cliffs of Dover are 100 metres high and are visible from France)

This proposed development is approximately 2 miles from the centre of Sedgefield. **These gigantic industrial wind machines are visible for 20 miles.**

**ENVIRONMENTAL IMPACT**

We do not feel it makes sense to tackle one environmental problem with another.

The development of clean energy should not entail being stampeded into the irreversible ruination of our fast diminishing countryside.

Would it not be more appropriate to site industrial turbines alongside established industrial sites? A fine example is the wind farm being developed jointly by AMEC and Corus on the blast furnace site at Redcar. 11 turbines on 911 hectares of waste land, far away from residential areas. An even better solution would be to site them offshore where turbines are proven to be more efficient.

The damage caused to birds and bats by the turbine blades is devastating. Durham Bat group are- **"Extremely concerned about the likely negative effect on European protected species."**





Whilst the turbines lifespan is approx. 25years, the 1000 tons of concrete required to give a stable footing, is a permanent legacy. The process of cement production is extremely polluting, to say nothing of the materials needed to build the service roads to accommodate the 1000's of heavy vehicles, cranes, cement mixers, huge low loaders etc.

There are numerous public footpaths and bridleways across the proposed site that will be affected by the development.

#### HEALTH IMPACT

The site is too close to where people live and has the potential to affect residents' health, quality of life and human rights.

Flicker, shadows and low frequency noise are all acknowledged to contribute to stress related illness.

Construction work, although short term, 9-12 months, contributes to environmental pollution causing ill health.

#### CUMULATIVE IMPACT

Wind farms breed wind farms!

The 7 turbines on the walkway are alleged to produce enough electricity for 9,500 homes. The proposed 10 are alleged to produce enough power for 8,500 homes. Who has got there facts right?

More worrying is the size of the site that E.ON is proposing. Although the proposal is for 10 turbines, in communication with E.ON they have stated that " the North East Regional guidance for wind farms suggests the area within which the proposed site is located might accommodate a 'medium scale development' of 20-25 turbines."

County Durham has many more applications for wind farms in the pipeline. This will be extremely detrimental to the countryside.

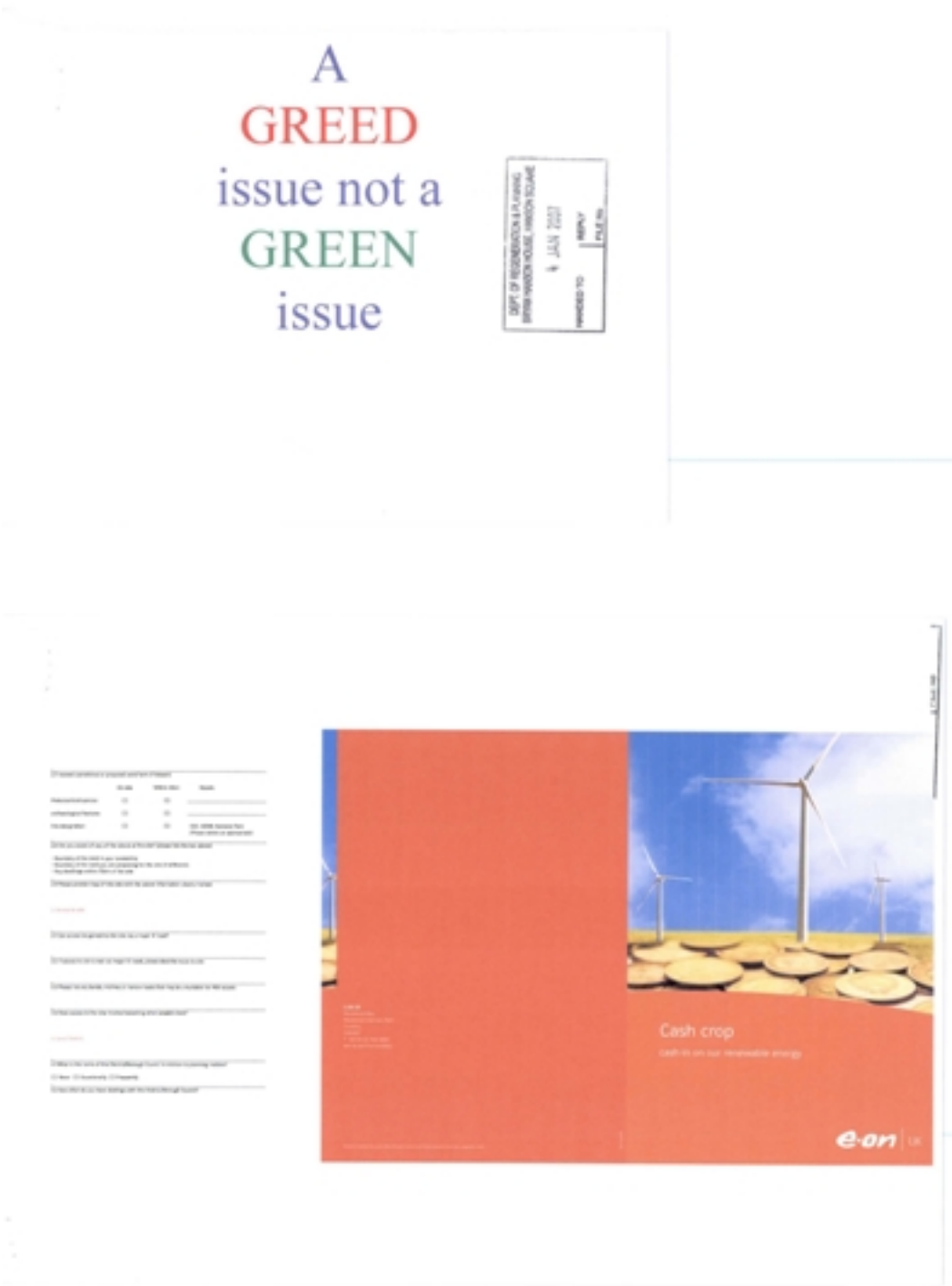
#### IS THIS THE THIN END OF THE WEDGE?

If you agree to these points-

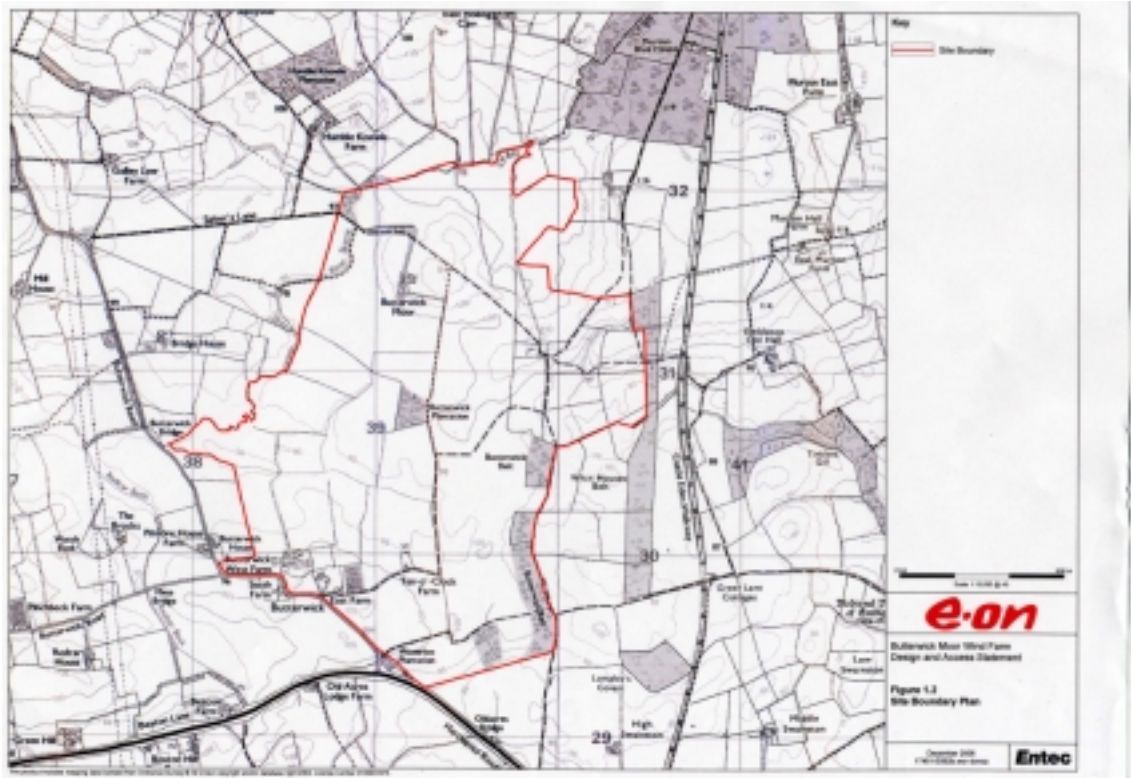
Email [sedgefield.wynyard.at@hotmail.com](mailto:sedgefield.wynyard.at@hotmail.com)

Or call 07867522936 or 07722022732

DEPT. OF REGENERATION & PLANNING BRYAN HANSON HOUSE, HANSON SQUARE	
4 JAN 2007	
HANDED TO	REPLY
	FILE No







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

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### **Introduction**

4.1 The purpose of this report is to notify Members that the validity of the decision on this application originally taken on 30 August 2006 and reaffirmed on 22 November 2006 has again been challenged by a local resident, who requests that the application be reconsidered by the Committee. If not the resident will seek leave for judicial review .

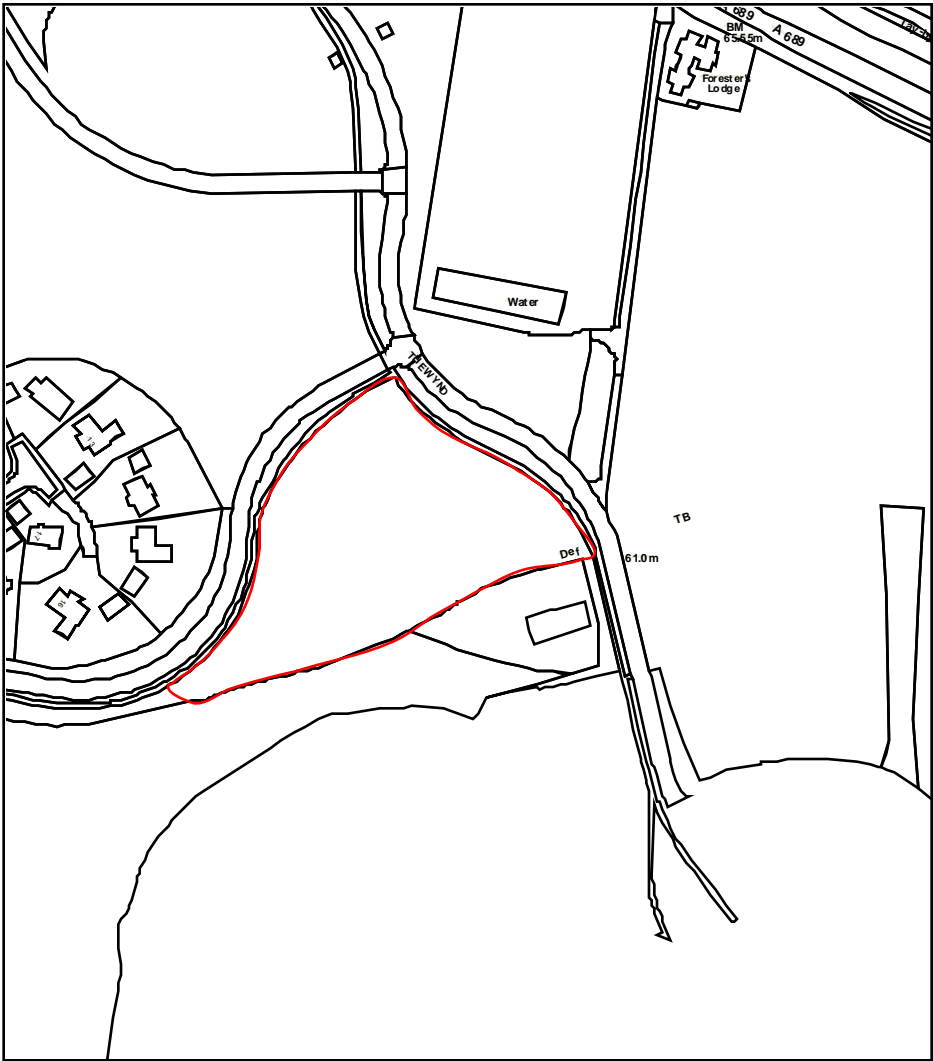
4.2 Officers are currently seeking advice from Counsel on how this matter should be dealt with. The outcome of this exercise will be notified to Members in an update report to follow .

### **Recommendation**

4.3 Update report to follow



The Wynd



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>07/02/07</b>
	SCALE <b>1:2000</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2006/0338</b>	REV

**No:** 5  
**Number:** H/2006/0877  
**Applicant:** Mr T Wilkinson  
**Agent:** The Design Gap 1 Scarborough Street HARTLEPOOL  
 TS24 7DA  
**Date valid:** 18/12/2006  
**Development:** Removal of condition 5 of planning approval  
 H/FUL/0778/03 and condition 7 of planning approval  
 H/2006/0493 to allow unrestricted use of function room  
 and seating area  
**Location:** 2 VICTORIA ROAD HARTLEPOOL HARTLEPOOL

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### The Application and Site

5.1 Application H/FUL/0778/03 changed the use of the first floor of the property to a function room with bar facilities. Condition 5 of the approval restricted the hours of opening outside the hours of 9am to midnight any day of the week.

5.2 Planning approval H/2006/0493 granted consent for alterations to a previously approved scheme for the conversion to a public house, including alterations to elevations and the creation of an external seating area. Condition 7 of the approval restricts the hours of use of the external seating area up until 8:00pm or sunset whichever is sooner each day.

5.3 This application seeks consent to remove condition 5 of planning application H/FUL/0778/03 and condition 7 of planning approval H/2006/0493.

5.4 The application site is the former gas showroom located upon the junction of Victoria Road and Avenue Road. It is a two-storey end terraced property with a single storey element to the rear. The site is located upon a terrace of two-storey drinking establishments, which front Victoria Road.

### Planning History

5.5 In addition to the two planning applications discussed above the premises has been subject to a number of planning applications relating to its use as a public house.

- H/FUL/0319/00 – Change of use from gas showroom to an A3 use (public house/restaurant) - Refused
- H/FUL/0510/00 – Change of use and alterations to form café bar on the ground floor. This application was approved and is currently being implemented.

- H/FUL/0466/03 – Change of use from approved first floor office use to use as a licensed premises was refused but allowed on appeal. Prior to the determination of the appeal, an additional planning application which was identical to the appeal application was re-submitted and approved by members (H/FUL/0778/03).
- H/FUL/0832/03 – Erection of a two-storey bar/restaurant and function room/conference room. This application involved the demolition of the existing property and was approved (and is extant).

## Publicity

5.6 The application has been advertised by way of neighbour letters (5) and site notice. To date, there have been no letters of objection received.

5.7 The period for publicity has expired.

## Consultations

5.8 The following consultation replies have been received:

**Head of Public Protection and Housing** :- No objection, he considers that it would be difficult to sustain an objection to this application given the number of neighbouring licensed premises that now have licences until 4:00am. He believes licensing controls provide adequate protection here.

**Head of Traffic and Transportation**:- No objection as the site is located within the town centre for parking.

## Planning Policy

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

Com1: States that the town centre will be developed as the main shopping, commercial and social centre of Hartlepool. The town centre presents opportunities for a range of commercial and mixed use development subject to policies Com2, Com8 and Com9. Proposals for revitalisation and redevelopment should improve the overall appearance of the area, and also public transport, pedestrian and cycleway facilities and linkages. The Borough Council will encourage the enhancement of existing or creation of new open spaces and will seek to secure the reuse of vacant commercial properties including their use for residential purposes. Proposals for A3, A4 and A5 uses will be subject to policies Com12 and Rec13 and will be controlled by the use of planning conditions.

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

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

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

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

Rec13: States that late night uses will be permitted only within the Church Street mixed use area, or the southwest area of the Marina subject to criteria relating to amenity issues and the function and character of these areas. Developer contributions will be sought where necessary to mitigate the effects of developments.

### **Planning Considerations**

5.10 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals within the Hartlepool Local Plan and the impact of the proposal upon the living conditions of residential properties in the locality.

5.11 The two elements of the application will be considered in turn below :-

#### **Removal of Condition 5 of planning approval H/FUL/0778/03.**

5.12 The ground floor use of the premises as a café/bar is not subject to a restrictive planning condition regarding hours of operation. It has recently been granted a license allowing the sale of alcohol until 4:00am every day of the week.

5.13 Since the original change of use planning application was determined for the first floor of the premises there has been a significant shift in the licensing laws. The nearby drinking establishments and the ground floor of the application site have license conditions which allow opening hours until -

- 2 Victoria Road (ground floor only) – 4:00am all week
- Time and Tide – 4:00 am all week
- 42<sup>nd</sup> Street – 4:00 am all week
- Loons – 4:00am all week (ground floor only)
- Bar Paris- 4:00am all week
- Cactus Jacks – 4:00 a.m. all week
- Yates – 2:30am all week

- Bar One – 2:00am Thursday through Sunday (midnight the other days)

It should be noted that none of these properties have any planning restriction on opening hours.

5.14 While Policy Rec13 of the Hartlepool Local Plan 2006 makes provision for late night uses only within the Church Street mixed-use area or the south west area of the marina it is considered that given the hours of operation associated with the surrounding drinking establishments (including the ground floor of the application site) and a lack of objection from the Council's Head of Public Protection, a refusal could not be sustained on policy grounds in this instance.

5.15 The closest residential properties to the site are dwelling houses in Errol Street and the flats above retail units in York Road which are approximately 90m and 45m away respectively. As there are a number of licensed premises in between the application site and the nearby residential properties which can stay open until 4:00am it is not considered that by removing the condition in question it will create an significant increase in the potential for noise and disturbance issues upon the living conditions of the occupants of nearby residential properties.

#### **Removal of Condition 7 of planning approval H/2006/0493.**

5.16 The applicant seeks to remove this condition to allow the use of the approved external seating area in conjunction with the licence attached to the ground floor of the premises.

5.17 The applicants supporting design and access statement makes reference to the external seating area being created to overcome the forthcoming legislation regarding smoking in bars and restaurants. In addition the applicant feels that by restricting the use of the external seating area to 8:00pm or sunset will force patrons' to leave the establishment, which may limit the success of the venture.

5.18 The Council's Head of Public Protection has raised no objection to the proposed removal of the condition.

5.19 Given the distance of the seating area to the nearby residential properties and subject to the planning condition precluding amplified music to the external area being retained, it is not considered that an objection could be sustained on noise and disturbance grounds. The external seating area will be subject to control under the licensing laws and nuisance powers.

5.20 The Council's Principle Licensing Officer has highlighted that should there be a problems with the use of the external seating area then either the planning department, environmental health or the police can ask for a condition to be added to the licence to control it further.

#### **Conclusion**

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

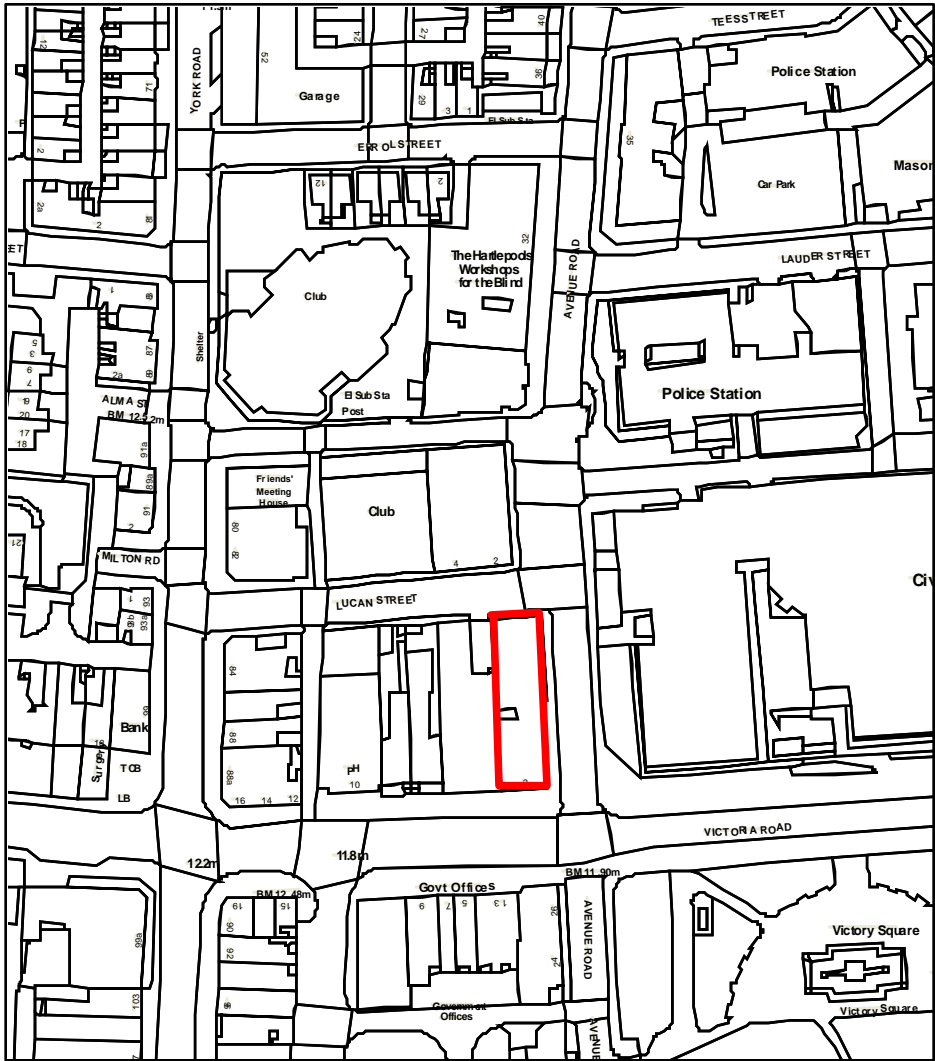
**RECOMMENDATION** - Approve

1. The permission shall relate to the removal of condition 5 of planning approval H/FUL/0778/03 and condition 7 of planning approval H/2006/0493 and all other planning condition attached to those permissions shall still apply.

REASON:- For the avoidance of doubt.



2 Victoria Road



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>6/2/07</b>
	SCALE <b>1:1250</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2006/0877</b>	REV

**No:** 6  
**Number:** H/2007/0056  
**Applicant:** Persimmon Homes Teesside Hilton Road Aycliffe Industrial Estate Newton Aycliffe Durham DL5 6EN  
**Agent:** Persimmon House Hilton Road Aycliffe Industrial Estate Newton Aycliffe DL5 6EN  
**Date valid:** 18/01/2007  
**Development:** Approval of reserved matters for the erection of 56, 2 storey houses, and 21, 3 storey, apartments and associated works  
**Location:** AREA 7C MIDDLE WARREN MERLIN WAY HARTLEPOOL Hartlepool

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### The Application and Site

6.1 The application site is allocated for residential development within Middle Warren. The site is bounded to the west and south by existing housing (Primrose Road and Bluebell Way), to the north by Merlin Way with a site currently being developed by Charles Church adjacent, Merlin Way also bounds the site to the east with future residential development allocated beyond.

6.2 The application proposes the erection of 56, 2 storey properties, 3 bedroom properties, (a mixture of semi-detached and detached), and 2 blocks of 3 storey apartments to house 21, 2 bedroom units. The proposed access to this site is via Primrose Road, and accommodates a sewer easement to the southern boundary.

### Publicity

6.3 The application has been advertised by way of site notices (3) neighbour letters (28). To date, there have been 11 letters of objection, 2 from the same person.

6.4 The concerns raised are:

1. Too many houses and apartments
2. Amount of parking provision for existing properties
3. Lack of open space for children
4. Type of housing/apartments proposed and types of people they will attract
5. Primrose Road being used as a throughfare
6. Design of apartments 3 storey too high
7. Devaluation of existing houses
8. Increase in litter, noise and traffic
9. Landlords will rent to anyone
10. Access onto Primrose Road, should be via Merlin Way
11. Condition of existing apartments which look tired and unkempt, concerns regarding more apartments
12. Health and safety concerns regarding access onto Primrose Road
13. Inadequate road widths

14. Access for emergency service vehicles
15. Safety for children
16. Heavy congestion
17. Amount of parking proposed is not sufficient
18. Current speed limits and road layouts are not clearly detailed in the surrounding area, adding to possibility of accidents occurring
19. More accesses from site onto Merlin Way should be explored
20. More landscaping required
21. Density of dwellings
22. No highway verges shown on the plan
23. No traffic calming measures
24. The easement should be under the road rather than in residential gardens
25. Access currently from Bluebell Way onto Primrose Road is a blind 90 degree corner, this will become a traffic black spot

Copy letters A

6.5 The period for publicity expires on the 9<sup>th</sup> March 2007. Should any further representations be received they will be presented to the Committee in an update report.

### **Consultations**

6.6 The following consultation replies have been received:

**Head of Public Protection** - no objection

**Head of Traffic and Transportation** - no objection

**Engineering Consultancy** - a site investigation is required

**Cleveland Police** - comments regarding secured by design initiative

**Northumbrian Water** - no objection

**Neighbourhood Services** - awaiting response

### **Planning Policy**

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

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

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

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

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

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

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

### **Planning Considerations**

6.8 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan 2006, the impact of the proposals upon neighbouring properties and surrounding area and highway safety considerations. The principle of residential development has already been established through the outline permission.

#### **Effects on neighbouring properties and surrounding area**

6.9 In terms of siting and design the proposed dwellings meet the Council's separation distances and have adequate garden areas.

6.10 In terms of the proposed apartments, these are proposed to face onto Merlin Way adjacent to existing flats (Waterlily Court), the proposed apartments are 3 storey in height similar to others approved on Middle Warren. It is considered it would be difficult to sustain an objection on siting and design grounds. Although the houses are generally slightly smaller than recent development in the area, they are not considered out of keeping with the surrounding area, given the mixture of types

of housing through out the Middle Warren area. The layout is not dissimilar to others on the estate where apartments have been approved.

6.11 Concerns have been raised in terms of the amount of open space within Middle Warren, however the Master Plan identifies open space in terms of pockets of open space, the neighbourhood park, the green wedge and structured planting which are being incorporated into the relevant areas. The Master Plan does not identify an area of open space in this part of the estate.

6.12 Cleveland Police provided comments in relation to the proposed layout, which were passed onto the developer, the comments included types of means of enclosures, landscaping, access routes, lighting, internal security measures and car parking. The developer has amended the layout to omit 2 pedestrian links in accordance with Police comments, means of enclosure and landscaping can be controlled via condition, and the car parking for the apartments has the surveillance necessary.

### Highways

6.13 The access is proposed from Primrose Road, which accords with the Master Plan. There was no access proposed on the Master Plan (for this area) via Merlin Way. Although indicative it was always envisaged that access to this site would be via a secondary road, and the estate road pattern has been designed accordingly.

6.14 Although there have been a number of objections raised to this entrance the Head of Traffic and Transportation has no objection to the scheme. It is considered that one access in and out of the site is acceptable on highway safety grounds and having regard to the need to design out the potential for crime. An emergency access has now been identified on this basis. The Head of Traffic and Transportation is satisfied that the access arrangements meets the Council's Design Guide Specification.

6.15 Adequate parking facilities are proposed within the development, the proposed houses each have a garage and driveway. The Council's maximum parking standard for higher density development (such as apartments) is generally 1.5 spaces per dwelling, which in this instance would be a maximum of 33 parking spaces. The developer has shown 27 spaces, and in this instance given secure cycle parking is also provided, the Council's Traffic and Transportation team consider this acceptable.

6.16 There were concerns from the Head of Traffic and Transportation regarding the width of the internal road layout of the site, however an amended plan has been submitted showing a 5.5m wide road and this is considered acceptable by the Council's Highways Engineers.

### Conclusion

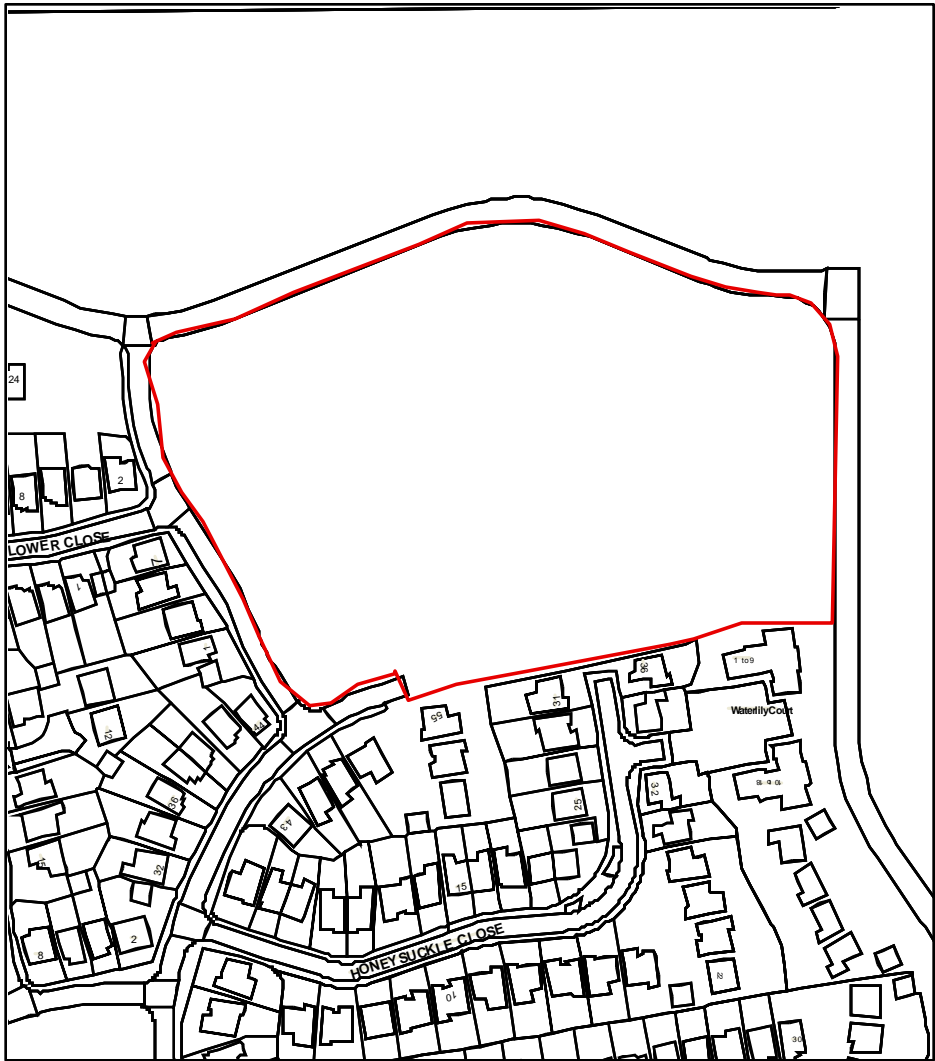
6.17 It is considered that the proposed development is appropriate for the site, and accords with the Master Plan.

## RECOMMENDATION - APPROVE

1. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
2. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.  
In the interests of visual amenity.
3. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 18th January and 8th March 2007, unless otherwise agreed in writing by the Local Planning Authority.  
For the avoidance of doubt
4. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.  
In the interests of visual amenity.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.  
In the interests of visual amenity.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.  
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure, shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road, without the prior written consent of the Local Planning Authority.  
To enable the Local Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

8. Unless otherwise agreed in writing by the Local Planning Authority the development shall be carried out in accordance with the finished floor levels submitted on the 8th March 2007.  
To ensure the site is developed in a satisfactory manner.
9. Notwithstanding the submitted details a scheme detailing the proposed cycle storage and refuse storage shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the apartments. Thereafter the scheme shall be carried out in accordance with the approved details.  
In the interests of visual amenity.
10. A scheme for access in connection with the building of this site (via Merlin Way) shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing on site. Thereafter the site will be carried out in accordance with the approved details.  
In the interests of the amenities of the occupants of neighbouring properties.
11. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.  
To ensure that any site contamination is addressed.

Area 7C Middle Warren



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<b>HARTLEPOOL</b> <b>BOROUGH COUNCIL</b>	DRAWN <b>GS</b>	DATE <b>07/03/07</b>
	SCALE <b>1:1500</b>	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO <b>H/2007/0056</b>	REV



**No:** 2  
**Number:** H/2006/0891  
**Applicant:** Mr Kevin Smart 29 Glentower Grove Hartlepool Cleveland TS25 1DR  
**Agent:** Cad-Link Architectural Services Ltd 26 Mountston Close Hartlepool TS26 0LR  
**Date valid:** 02/01/2007  
**Development:** Demolition of existing property and erection of two detached houses with associated detached garages  
**Location:** 7 HYLTON ROAD HARTLEPOOL

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### **UPDATE**

1 This application appears on the agenda at item 2.

2 The purpose of this update is to appraise members of further representations received in response to the latest amended plans. At the time of writing four further objections had been received.

3 The objectors raise the following issues:

- 1) The owner/developer who supports the scheme is not an impartial observer. The residents objecting have a lot to lose
- 2) The proposed development is intrusive and out of character, it is unnecessary, unattractive and unwanted.
- 3) Shortage of bungalows
- 4) Large encroachment on an area of bungalows.
- 5) Can roof lights and a garage be resisted.

4 The further representations received are **attached**. The time period for representations expires on 19<sup>th</sup> March 2007. Any further responses received will be tabled at the meeting.

### **PLANNING CONSIDERATIONS**

5 The issues of the impact of the development on the amenity neighbouring properties, its impact on the visual amenity of the area/street scene and the loss of the bungalow are discussed in the main report, where it is concluded that the proposal is acceptable.

6 The issue of roof lights is also discussed in the main report. Rooflights are not proposed. The applicant is agreeable to conditions restricting the use of the roof space. Conditions 7 and 8 proposed in the main report will restrict the use of the roofspace as habitable room(s) and the insertion of roof lights/dormers. The conditions will mean that any future owners will need to obtain a further planning permission for any proposed use of the roofspace as habitable rooms, and/or, for the insertion of rooflights or dormers. As stated in

the committee report however given the fact that the proposed dwellinghouses meet or exceed the required separation distances, it is considered that suitable loft conversion schemes would be difficult to resist. A neighbour has raised concerns that the conditions would not cover an instance where the roof were altered to accommodate a balcony whilst this is arguable for the avoidance of doubt a new condition 8 is proposed below.

7 The garage has been omitted from the southern most plot by the applicant following concerns raised by the Arboriculturalist in relation to the protected tree. Condition 5 restricts the provision of garages on the site in the interests of the tree and neighbours. The condition means that any future owners will need to obtain a further planning permission for any proposed garage it does not follow however that all garages would automatically be resisted. It is considered that provided any garage proposal has due regard to the tree and the amenity of neighbours, a suitably sited and designed garage could be accommodated within the site should it be required at a later date.

### **RECOMMENDATION**

The recommendation remains that the application should be **approved** subject to the conditions set out in the report as amended by the revised condition 8 set out below:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) no balconies, rooflights, windows or dormer windows shall be inserted within or added to the roof of any of the dwelling(s) hereby approved, nor shall the roof of either dwelling be altered or extended in any way, without the prior written consent of the Local Planning Authority.

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



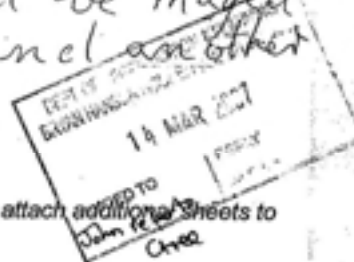
**Application No** H/2006/0891  
**Proposal** Demolition of existing property and erection of two detached houses with one associated detached garage. (FURTHER AMENDED PLANS RECEIVED)  
**Location** 7 HYLTON ROAD  
**Case Officer** Jim Ferguson

I/We\* have received your letter and want to object/do not want to object\* to the proposal.

I/We\* want/do not want\* to have the chance to speak to the Committee of Councillors if it is asked to consider this application.

Please use the space below to explain your concerns/reasons for objecting to the proposal.

It is definately a large encroachment of an area planned for a bungalow, and can a hold be maged on roof lights and an other garage. 53309



If you need more space, please continue over or attach additional sheets to this letter.

Name (Please print)	S. Frankland	Mr/Mrs/Miss/Ms*
Address	21 MEADOW DRIVE	
Date	12/3/07	
Telephone number	260073	
Email address		

**Nb -** It is not essential that we have your telephone number but it will help us if we need to contact you

\* Please delete as appropriate

For Official Use Only	
No objections	
Objections	
Comments	
Petitions	
No. of signatures	
For/Against	
Wishes to speak	
Entered in computer	

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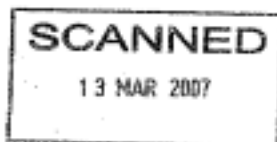
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**Location** 7 HYLTON ROAD  
**Case Officer** Jim Ferguson



*/We\* have received your letter and want to object/~~do not want to object~~\* to the proposal.*

*/We\* want/do not want\* to have the chance to speak to the Committee of Councillors if it is asked to consider this application.*

Please use the space below to explain your concerns/reasons for objecting to the proposal.



53580



*If you need more space, please continue over or attach additional sheets to this letter.*

<b>Name (Please print)</b>	Mr & Mrs JONES	Mr/Mrs/Miss/Ms*
<b>Address</b>	6 West Park	
<b>Date</b>		
<b>Telephone number</b>		
<b>Email address</b>		

**Nb** - It is not essential that we have your telephone number but it will help us if we need to contact you

\* Please delete as appropriate

For Official Use Only	
No objections	
Objections	<input checked="" type="checkbox"/>
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Petitions	
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For/Against	
Wishes to speak	
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SCANNED

13 MAR 2007

Application No H/2006/0891

Proposal Demolition of existing property and erection of two detached houses with one associated detached garage. (FURTHER AMENDED PLANS RECEIVED)

Location 7 HYLTON ROAD

Case Officer Jim Ferguson

DEPT. OF REGENERATION & HOUSING  
BRYAN HANSON HOUSE, HANSON SQUARE  
12 MAR 2007  
REPLY  
By, refer to Clerk, Tel. & No



We\* have received your letter and want to object/~~do not want to object~~ to the proposal.

We\* want/~~do not want~~ to have the chance to speak to the Committee of Councillors if it is asked to consider this application.

Please use the space below to explain your concerns/reasons for objecting to the proposal.

Shortage of bungalows in this area  
I am disabled, it took us  
2 years to find a bungalow  
which was big enough and the  
area around flat for my  
needs. Bungalows are the one you  
propose to demolish and hard to find  
and are sold very quickly.

If you need more space, please continue over or attach additional sheets to this letter.

Name (Please print)	VALERIE ROBERTS	Mr/Mrs/Ms/Ms*
Address	10 The Vale	
Date	10.3.07	
Telephone number	[REDACTED]	
Email address	[REDACTED]	

Nb - It is not essential that we have your telephone number but it will help us if we need to contact you

\* Please delete as appropriate

For Official Use Only	
No objections	
Objections	✓
Comments	
Petitions	
No. of signatures	
For/Against	
Wishes to speak	✓
Entered in computer	

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-----Original Message-----

From: PublicAccess

Sent:

To: DevelopmentControl

Subject: Comment Received from Public Access

\*\*\*\*\*

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This header confirms that this email message has been successfully virus scanned.

Any problems, please contact [infosys@hartlepool.gov.uk](mailto:infosys@hartlepool.gov.uk)

\*\*\*\*\*

Application Reference No. : H/2006/0891

Site Address: 7, HYLTON ROAD, HARTLEPOOL, , TS26 0AD

Comments by: Graeme Scarratt

From:

Phone:

Email:

Submission: Objection

Comments: I hope the developer does not expect us to feel grateful that he has, on several occasions, amended his plans!

The support for the development offered by S.Wilson misses the point: the objections have been made by residents who have a lot to lose. The support comes from the owner/developer - hardly an impartial observer!

The bottom line is ...

the proposed development is intrusive and out of character; it is unnecessary, unattractive and unwanted!

**No:** 6  
**Number:** H/2007/0056  
**Applicant:** Persimmon Homes Teesside Hilton Road Aycliffe  
Industrial Estate Newton Ayclife Durham DL5 6EN  
**Agent:** Persimmon House Hilton Road Aycliffe Industrial Estate  
Newton Ayclife DL5 6EN  
**Date valid:** 18/01/2007  
**Development:** Approval of reserved matters for the erection of 56, 2  
storey houses, and 21, 3 storey, apartments and  
associated works  
**Location:** AREA 7C MIDDLE WARREN MERLIN WAY  
HARTLEPOOL Hartlepool

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## PLANNING UPDATE

1. The period for publicity expired on the 9<sup>th</sup> March 2007. Since the writing of the Planning Committee report, a letter of no objection and an email with comments have been received. A copy of the email is attached. The comments disagree with the suggestions from other residents that Bluebell Way should continue onto Merlin Way to serve this development.

## RECOMMENDATION

2. The representation received regarding this proposal have been taken into consideration. The officer recommendation remains the same, and approval is recommended.

From: PublicAccess  
Sent:  
To: DevelopmentControl  
Subject: Comment Received from Public Access

\*\*\*\*\*

The contents of this email are confidential and are intended for the use of the individual to whom they are addressed.

This header confirms that this email message has been successfully virus scanned.

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\*\*\*\*\*

Application Reference No. : H/2007/0056  
Site Address: AREA 7C, MIDDLE WARREN, MERLIN WAY, HARTLEPOOL,  
Comments by: ANDERSON  
From:  
51  
BLUEBELL WAY  
MIDDLE WARREN  
HARTLEPOOL  
TEES VALLEY  
TS26 0WF  
Phone: 07906 173116  
Email: [debbie\\_anderson22@msn.com](mailto:debbie_anderson22@msn.com)  
Submission: Neither

Comments: I have been reading with interest the comments of those who have put objects towards the access route for the area of 7C. I would like to point out that when I bought my property I checked the plans to be told the end of Bluebell Way would remain a dead end. I, like those objecting have children and I disagree with their comments that Bluebell Way should continue to Merlin with as this would mean we would have traffic right next to our house, which at present has no walk way of grass verge. Maybe those objecting should think about were they wish to redirect their problem.



## ANY OTHER BUSINESS

**No:**

**Number:** H/2005/5222

**Applicant:** High Point Estates 7 Victoria Avenue Harrogate HG1 1EQ

**Agent:** England & Lyle Morton House Morton Road Darlington DL1 4PT

**Date valid:** 29/03/2005

**Development:** Approval of reserved matters for the erection of 4 non-food retail units

**Location:** Land At The Junction Of Middleton Road And Marina Way Hartlepool

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### **Background**

1. The above application was approved by Committee in August 2005.
2. A condition on the approval required the implementation of proposed improvements to off site bus stops and pedestrian access on Marina Way/Middleton Road.
3. The works proposed on Marina Way included the resiting of the bus stop on the west side of Marina Way, improvements to a bus stop on the east side and improvements to pedestrian access across Marina Way. These works save for the provision of a pedestrian guard rail, which is in hand, have been completed. The other works proposed, on the north side of Middleton Road, included the provision of a bus lay by. These works were delayed by the remedial works required to the railway bridge on Middleton Road and have not been completed.
4. In the intervening period questions have been raised as to whether the proposed bus lay by on Middleton Road would be practical and safe. Buses using the lay by, turning right onto Marina Way, would have to cross two lanes of traffic. The lay by is located on the approaches to the roundabout and the applicant is concerned that the addition of an emerging bus pulling out from the lay by would create an additional hazard. The applicant also points out that bus drivers can have problems re-entering the traffic flow from lay bys and that there is a general preference amongst bus operators for on carriageway bus stops. This view is supported by a letter from a bus operator, Stagecoach, which states "I write with regard to the bus stop on Middleton Road outside the Focus Store. I am satisfied with the present bus stop on the 2 lane highway. I would not support the use of a bus stop lay by at this point. I would consider it to be detrimental to our service. It would be difficult for buses to exit the bus stop and cross to the outside lane to turn right at the roundabout." Finally the applicant considers that there would be significant problems in constructing the lay by in terms of traffic management and the diversion of statutory undertakers equipment.
5. In light of the above concerns the applicant is proposing therefore to provide a conventional on carriageway bus stop with a raised kerb instead of the lay by.

## **ANY OTHER BUSINESS**

The applicant is also willing to provide a similar bus stop on the other side of Middleton Road, which has been suggested by Stagecoach.

### **Consultations**

6. Traffic & Transportation have no objections to the bus stop proposals providing highway safety is not comprised with regard to the suggestion for a bus stop on the other side of the road.

### **Planning Considerations**

7. It is considered that the revised bus stop proposals for Middleton Road are acceptable. The terms of condition 1 of the original permission allows for variation of the details of the bus stop by agreement.

**RECOMMENDATION:- Approve** amended proposals for the bus stop on the North side of Middleton Road. The agreement of the final details for the additional bus stop on the south side of Middleton Road to be delegated to the Head of Development Control.

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

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## **1. Introduction**

### **1.1 The purpose of this report is as follows:-**

i) to notify Members that the validity of the decision on this application originally taken on 30 August 2006 and reaffirmed on 22 November 2006 has again been challenged by solicitors acting on behalf of a local resident, who requests that the application be reconsidered by the Committee. If not the resident will seek leave for judicial review.

ii) to give consideration to the issues in question raised by the local resident.

iii) to recommend that the Committee re-affirms its original decision to approve the planning application subject to a planning agreement and conditions.

### **1.2 For background information the relevant planning reports and committee minutes are attached as is the resident's solicitor's letter. The chronology of events are summarised below.**

## **2. Chronology**

### **2.1 The LPA's Planning Committee first dealt with the application on 30<sup>th</sup> August 2006. The report to Committee recommended approval subject to conditions and a satisfactory section 106 agreement. The committee resolved that it was "minded to approve the application" subject to the suggested conditions and a section 106 agreement.**

### **2.2 The application was referred back to planning committee on 22<sup>nd</sup> November 2006. In summary, the report indicated that:**

- There was no longer any scheduled bus service operating through Wynyard village or running along the A689 between Fishburn and the A19.
- However, it was the intention of the LPA and Stockton Borough Council to operate jointly a new bus service known as Community Lynx Transport from December 2006. The applicant has also proposed a mini-bus service as part of the Travel Plan for the development. This is to be available to transfer staff to and from the site and also would be available to residents of both the care home and the apartments for social visits. This service would be secured through the section 106 agreement.
- The LPA's highway engineer considers that, subject to the introduction of the Travel Plan and the Lynx Community Service, the proposed development would be accessible.

2.3 The report advised that the Committee should re-affirm its previous decision to grant planning permission subject to conditions and a planning agreement with the additional proviso that the mini-bus service be made available to residents of the care home and apartments "for any type of socially related visits to nearby centres". The Committee accepted this recommendation.

### **3. The current complaint**

3.1 The resident through his solicitors has indicated that he believes the LPA's latest decision remains vulnerable to legal challenge on a number of grounds. These grounds are summarised below and in the following section of the report are considered in the context of legal advice provided by Counsel:-

- (a) The LPA misdirected itself as to the correct policy tests in relation to HSG12 because:
  - i. The LPA wrongly considered the mini-bus service and the Lynx Scheme to be "public transport". The 'Lynx' service is constrained both in terms of its utility and continuity.
  - ii. The supplementary report concludes that "the development would be accessible" whereas the test in HSG12 is "development being conveniently located for access to public transport".
  - iii. The supplementary report did not state that the Lynx Community Scheme or mini-bus service would not cater for visitors or other relatives and therefore ignored the issue of visitors and failed to understand that the issue of accessibility goes beyond residents.
  - iv. In any event, the conclusion that the development is accessible was perverse/unreasonable/irrational.

- (b) The committee and/or the public should have had the precise terms of the section 106 agreement before them prior to making a decision to approve.
- (c) The original report to committee was wrong in concluding that PPG3 did not apply to the proposed development, whether by reference to the whole of what is proposed, or solely by reference to the apartments.
- (d) Furthermore, the sequential test put forward by the applicant to demonstrate that there was no other brownfield site available was manifestly inadequate as it was confined to the Wynyard Estate.

#### **4. Further planning considerations**

##### **(a) Relevance of Policy Hsg. 12**

*(i) The question of whether the mini-bus service and the Lynx service constitute "public transport"?*

- 4.1 The mini-bus service to be provided by the applicant for the development would not be "public transport" as it is neither available to members of the public generally nor is it provided by a public service transport operator.
- 4.2 Notwithstanding this The Community Lynx Service provided by public bodies (i.e. Hartlepool and Stockton Borough Councils) and available to the public, albeit limited to those who are members of the service is considered to constitute a form of public transport although it is not in a form conventionally thought of as such.
- 4.3 Counsel has advised that the committee was entitled to consider that the Lynx service was public transport.

*(ii) The question of whether the development is conveniently located for access to public transport*

- 4.4 Counsel considers that there is no legal basis for a challenge on this ground.

*(iii) Availability of public transport to visitors of the proposed development?*

- 4.5 It is acknowledged that there is no public transport specifically available to visitors to access the development and that the Committee was not specifically advised that the Community Lynx service would not be available to visitors. Counsel has advised that it appears to him to be contrived to suggest that the Committee would not have realised that the service was a limited one not extending to visitors.

(iv) *Was it irrational/perverse/unreasonable for the report to suggest that the public transport available complied with Policy HSG12*

- 4.6 Counsel considers that, having regard to the report's comments on the sustainability of the Wynyard development as a whole and on the main limitations and benefits of the proposed Lynx service, the committee's decision was not irrational or based on a failure to take into account any material considerations.

Current position in respect of the Community Lynx Service

- 4.7 The Transportation Services Manager has confirmed the present position with regard to the Lynx Service. Funding has been secured for another year, 2007 /2008 (i.e until March 2008) and measures are in place to ensure that the service is sustainable even after funding has expired, by operating it alongside the Council funded Dial-a-Ride scheme.

Detail of arrangements for the proposed dedicated mini-bus service

- 4.8 The detailed arrangements for the dedicated mini-bus service have now been finalised as part of the planning agreement. The agreement will enable the mini-bus service to be made available to staff and residents of the development. It will enable residents to gain access to nearby centres in the Hartlepool, Stockton and Sedgefield areas for the purposes of any social, leisure or health related visits at 2 hours notice. A charging structure is also incorporated. This service whilst supplementing the Community Lynx Service essentially forms the Travel Plan for the development as it is considered to be a key factor in helping to reduce dependency on the private car. Other such features are the incorporation of cycle parking provision within the development and the proximity of the site to local shops.

**(b)Availability of the details of the section 106 planning agreement**

- 4.9 It is not usual practice for the planning committee to be presented with a final version of the planning agreement for consideration. Instead it is normal for the heads of terms of the agreement to be presented.
- 4.10 Counsel has advised that he considers there to be no reason for the detailed content of the planning agreement to be considered by the planning committee.
- 4.11 For the reasons set out in relation to each of the issues referred to above, it is not, therefore, considered that there is any necessity to reconsider the

committee's earlier decision in the light of those issues. The remainder of the report deals with the final issue raised by the objector's solicitors and, as the committee will note, the advice received is such that there is a need for the committee to reconsider relevant issues. The remainder of the report therefore sets out the relevant issues which should be considered by the committee objectively, on the merits of the issues now presented and without being influenced by the fact that the committee has previously been minded to grant permission. Neither should the committee be influenced by the apparent readiness of the objector to seek judicial review of the committee's decision. The committee should deal with the issues presented in the remainder of the report even-handedly and as though they were coming to those issues afresh, and make any decision accordingly.

#### **(c) Relevance of PPG 3 to the development**

- 4.12 The government Planning Policy Statement 3 (Housing), previously PPG3 states that in considering new residential development brownfield sites should normally be prioritised ahead of greenfield sites. The original report to Committee considered the proposed development as a whole constituted a residential institution (Class C2) and as such the above test did not apply.
- 4.13 There has been some doubt in planning circles as to whether the above guidance applies to residential institutions such as care homes. However it would appear to Counsel after researching the matter further that there are cases where planning inspectors and the Secretary of State on appeal have held that residential care homes fall to be assessed in accordance with the guidance in PPG3. It is also arguable notwithstanding the linkages to the care home, that the apartments in themselves would not fall outside the scope of the PPG3 test because they constitute units of residential accommodation in their own right and fall within a different planning use class to the care home.
- 4.14 It should also be noted that PPS1 is relevant in that it specifically encourages the more efficient use of land through the use of suitably located previously developed land and buildings.
- 4.15 Similarly, there are policies in the Local Plan, GEP1 and Hsg5, which state that development generally (and residential development specifically) should be located on previously developed land.
- 4.16 In concluding on this point, Counsel whilst accepting that a contrary view is arguable, takes the view that the apartments fall within Use Class C3(dwellinghouses) and not C2 (Residential Institutions). National and local planning policy therefore needs to be applied in this context.



- 4.17 It is therefore accepted that it may not have been correct in the original report to assert that "the normal test and guidance in relation to residential development which states that in considering new residential development brownfield sites should normally be prioritised ahead of Greenfield sites does not therefore apply".
- 4.18 Before turning to considerations of the availability of previously used land the Committee's attention is drawn to policy Rur 2 of the Local Plan. This policy specifically states that 'Land at Wynyard within the Limits to Development shown on the Proposals Map is identified for housing and for employment purposes'. The policy does not specifically qualify the suitability of development in terms of a need to examine the availability of previously developed land. It can be interpreted as recognising that the Wynyard settlement is in an essentially greenfield rural location. Para. 3.6 to policy GEP 1 supports this assertion.
- 4.19 This policy is considered to be critical in that the site, though clearly having greenfield status, lies within the Wynyard Limits to Development. The proposed scheme is considered to be consistent with this policy.
- 4.20 Notwithstanding this the availability of brownfield land within the Wynyard Estate is known to be extremely limited. The one known 'potentially available' site is the Old School and offices located further along the Wynd in the Stockton Borough Council area. This site has recently been the subject of developer interest for a separate residential development and is not considered to be available for the current proposals.
- 4.21 Taking the above factors into account and also that the original report indicated that two sequentially less preferable greenfield sites had been discounted by the developer it is not considered necessary or appropriate to require the applicant to submit a more detailed sequential assessment of potentially available development sites in this case.
- 4.22 Furthermore, maximising the use of previously developed land is only one factor to be considered in terms of compliance with policy Hsg5. The policy also requires consideration to be given to the need for a variety of types and sizes of housing to meet the needs of all sectors of the community. Clearly the proposed development would cater for the needs of older residents who might due to their physical limitations otherwise be excluded from living at Wynyard. Consequently, there can be compliance with the policy notwithstanding that the proposal involves developing greenfield land.



4.23 The specific care considerations applicable to the very specialised type of housing proposed in the apartments and therefore its contribution to providing a variety of types of housing are considered to provide a justifiable basis for giving less weight to issues, such as previously developed land, which might be of greater significance were the proposal for conventional housing similar to what is already provided for at Wynyard.

4.24 The terms of the planning agreement will mean that residents of the apartments will have access to a number of the facilities and services available to those in the care home itself for the life time of the development. The services and facilities in question would include the following

- The communal lounge
- Any hairdressing services
- Any shop
- Dining services
- Resident transport
- 24 hour care services
- Home visits by care home staff for care related support

Other relevant material considerations arising from the interpretation of the apartments as independent units of residential accommodation.

4.25 Policy Hsg 5 indicates that planning permission will not be granted for proposals that would lead to the strategic housing requirement being significantly exceeded. It is considered that the development of 30 additional apartments would not be in breach of this objective.

4.26 The policy also requires that consideration be given to the need for developer contributions towards housing clearance and improvements within the housing market renewal area. The link between the proposed development and any adverse impact on the housing market renewal area is considered to be too tenuous in this case to justify such a contribution.

4.27 Aspects of the design and layout of the scheme have already been considered within the original report to Committee.

**(d) Restriction of consideration of the availability of brownfield land to the Wynyard area**

4.28 There is no indication in national planning guidance as to the extent of the area that should be considered when applying the sequential test of available brownfield sites. The developer has identified a market for the proposed development in the Wynyard location and it is not considered to

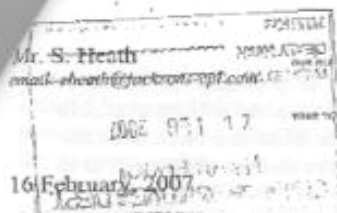
be reasonable to insist that consideration should be given to the development of a brownfield site beyond the Wynyard area.

**5. Overall conclusion.**

- 5.1 There is not therefore considered to be any need to re-examine the relevance of considerations in policy Hsg 12 to the proposed development insofar as it relates to public transport.
- 5.2 It should also be borne in mind that Wynyard is not a sustainable community. The proposed development would provide potential accommodation for relatives seeking to live close to other family members at Wynyard. This may serve to generate fewer vehicle movements and allow for greater dependency on non-car travel whether by residents of or visitors to the development.
- 5.3 In light of Counsel's advice it is considered that there is no need to present the specific detail of the planning agreement.
- 5.4 Whilst the Local Planning was arguably wrong not to apply the test in PPG3 / PPS3 to the development it has been reassessed in this light and it is considered that the scheme is acceptable in terms of relevant national planning guidance and local plan policies. The scheme will add to the mix of accommodation within Wynyard.
- 5.5 It is not considered reasonable to require the developer to seek to identify a potential brownfield site for the development outside the Wynyard area.

**6. Recommendation**

- 6.1 That the decision to grant planning permission subject to conditions and to the planning agreement heads of terms stated in the committee minute for 22 November 2006 be reaffirmed and that authority be granted to the Chief Solicitor to conclude the necessary planning agreement.



SH/B99325-1/EW/L18

JAB/PJD/WB/5684



Mr. J.A. Brown,  
Chief Solicitor,  
Hartlepool Borough Council,  
DX 60669,  
HARTLEPOOL 1.

Dear Sir,

**Re: Application for Proposed Development of 50 Bed Residential  
Care Home and Four Blocks of Apartment Comprising 30  
Dwellings for Occupation by over 55's – The Wynd, Wynyard  
Application Reference : H2006/0338**

We refer to previous correspondence regarding the above application and to your Council's consideration of that application at two meetings of the Planning Committee. We must now advise you that our client remains aggrieved at your Council's decisions for the reasons set out below.

At its meeting on Wednesday 30<sup>th</sup> August 2006, your Council's Planning Committee resolved to grant planning permission for the above development subject to the completion of a Section 106 Planning Obligation. Following our letter of 4<sup>th</sup> October 2006, your Council's Planning Committee sat again, on 22<sup>nd</sup> November 2006, and considered a supplementary report from its planning officer. That report considered the application of Local Plan Policy Hsg12 in the light of the knowledge that the public transport facilities which had been assumed to exist no longer did so. At this meeting, it was again resolved to grant planning permission subject to the completion of a satisfactory Section 106 Planning Obligation which was to include an extra item relating to the provision for a mini bus service for social visits.

In the supplementary report, two further facts were considered to be relevant in relation to the application of Policy Hsg12.

Firstly, a new bus service was to be commenced from December 2006. This service is to be operated jointly by two Councils and to use it it is necessary to be a member of the scheme. The report acknowledged two limitations which affect the utility of the service but also indicate that it may not continue:

- a) Funding is guaranteed only for one year.

**Witnesses**  
Alex (L1000)  
Cory (L1000)  
Sara (L1000)  
John (L1000)  
Brendan (L1000)  
Amanda (L1000)  
Mark (L1000)  
John (L1000)  
Mark (L1000)  
Amanda (L1000)  
Cory (L1000)  
Alex (L1000)  
John (L1000)

JACKSONS COMMERCIAL & PRIVATE LAW LLP (LIMITED LIABILITY PARTNERSHIP)  
REGISTERED OFFICE: INNOVATION HOUSE, VERN ROAD, STOCKTON ON TEES, TS18 3TN  
Tel 01642 356 500 Fax 01642 356 501 Dk 71 5800 STOCKTON ON TEES B  
E-MAIL: info@jacksons-cpl.com www.jacksons-cpl.com  
SOLICITORS IN THE NORTH AND SOUTH EAST OF ENGLAND



**Our partners**  
JAMES CLARK  
SOLICITORS

- b) The services is "demand responsive" and is primarily to assist in accessing health services. Only any excess capacity will be available to facilitate access to shopping and leisure facilities and there is a clear prohibition on it being used for social journeys and for visits such as to the pub or the cinema.

The report did not register the fact that the scheme will not cater for visitors or other relatives.

Secondly, the gap in provision for social visits was to be the subject of a mini bus service to be provided by the applicants. The initial purpose of the provision of the mini bus service was to provide travel for staff, presumably with restricted running times. The applicant had also agreed, however, "to make it available to residents of the development in connection with social visits". The report did not examine this service further and in particular:

- a) It was not clear during what hours the service would operate or be available and so its utility was not properly assessed.
- b) It was not clear if the service was available only for residents to go out or whether it would include their visitors being brought to visit them.
- c) It would be essentially a taxi service and not public transport. There was no indication of how the Section 106 Planning Obligation would provide for covering the cost of this service.

Despite this, it was concluded that the development would be accessible.

It is our client's view that your client has misdirected itself as to the correct policy tests as follows:

- a) The report concludes that "the development would be accessible", whilst the test in Policy Hsg12 is "development being conveniently located for access to public transport".
- b) The report considered by your Council has ignored the issue of visitors and thereby misunderstood that the issue of accessibility goes beyond accessibility in terms of travel arrangements for only the residents.
- c) Your Council has misdirected itself on the basis that it considers that the two schemes are "public transport".

Thirdly, your Council has failed to take into account a material consideration, namely the issue of visitors.

It is clear that in large part reliance was placed upon the service to be provided and secured by means of the Section 106 Planning Obligation. In these circumstances, the precise terms of that Section 106 Planning Obligation should have been available to the decision maker, i.e. the Planning Committee, to assess if the service provided satisfied the requirements of the relevant policy. Furthermore, the terms of the Section 106 Planning Obligation should have been made available, as part of the Committee agenda, to allow members of the public to make representations on the adequacy or otherwise of the Section 106 Planning Obligation.

Fourthly, our client is of the view that the conclusion that the development is accessible, is perverse and unreasonable. This view is re-enforced by the decision of an Inspector relating to the sustainable location of a site at Bradford Road, Gildersome, Leeds, a copy of which is enclosed and is referred to further below.

In addition to concerns regarding the direct application of Policy Hsg12, our client considers your Council has erred in its application of PPG3 to this application.

Enclosed is a copy of a Planning Appeal Decision, dated 6<sup>th</sup> November 2006 in which it was found by the Inspector that "PPG3 does not suggest that the presumption against developing greenfield land should not apply to residential homes" (para 5). She went on to refuse permission for the greenfield site on the basis that the site did not have "such locational advantages as to outweigh its unsuitability for housing because of its greenfield status" (para 6). The site in question was between two built up areas and the Inspector found that both "of the centres can be reached by bus but in my view there are few essential local shops or services within easy walking distance" (para 6). Given the lack of locational advantages, and the absence "of any pressing demand in this area that might justify building on greenfield land", she refused permission.

The conclusion of the Inspector is in direct contradiction to the view expressed in the report to Committee at para 1.18. There it is stated that the proposed development as a whole constitutes a residential institution (Class C2) as opposed to separate elements of care home and residential development. On that basis, it was concluded that the normal guidance as to greenfield land did not apply.

It is our client's opinion that your Council misdirected itself in concluding as it did at paragraph 1.18 of the report to Committee. The separate elements of the development should have each been measured against the relevant guidance. PPG3 makes it clear that its terms apply to housing such as proposed in this case. For example:

- a) At paragraph 1 PPG3 states "The housing needs of all in the community should be recognised including those in need of affordable or special housing in both urban and rural areas".
- b) Paragraph 2 includes a requirement for authorities to "plan to meet the housing requirements of the whole community, including those in need of affordable and special needs housing".

- c) At paragraph 11, authorities are exhorted to "encourage the provision of housing to meet the needs of specific groups (see paragraph 13)", and in turn paragraph 13 advised that:

"Local planning authorities should work jointly with housing departments to assess the range of needs for **different types** and sizes of housing **across all tenures** in their area. This should include affordable housing and housing to help meet the needs of specific groups – **the elderly**, the disabled, students and young single people, rough sleepers, the homeless and those who need hostel accommodation, key workers, travellers and occupiers of mobile homes and house boats" (our emphasis).

It is clear that this advice would cover the concept of a care village.

Even more certainly, the apartment element of this development must fall within the terms of this guidance.

It follows that the Council misdirected itself at the time it resolved to grant planning permission. It should also be noted that PPS3, replacing PPG3, is a material consideration at this time. Paragraphs 20, 21 and 69 of PPS3 make it clear that "care villages" are to be considered in terms of housing policy.

It is acknowledged that the agenda report refers to a de facto sequential test carried out by the developers. This assessment was limited to the Wynyard Estate which is a very limited area. The GLP report, on the other hand, looked at radii of 3 and 5 miles from the application site in assessing need and demand for the proposed care home provision. There is no particular reason why this care home has to be in Wynyard and, therefore, no reason why any assessment of the availability of brownfield sites should be limited in this way.

Accordingly, our client requires your authority to look again at the application for planning permission and your Council's earlier decisions. In doing this it should:

- a) reconsider the "public" transport available and to be provided in the light of the limitations and constraints referred to above
- b) consider the detailed provision to be made in the Section 106 Planning Obligation with regard to the mini bus service
- c) consider this information in light of the test in Policy Hsg12 i.e. the "development being conveniently located for access to public transport"
- d) consider the proposal in light of the proper interpretation of PPG3 and PPS3 relating to greenfield land and sustainable sites.

Please confirm, within 14 days of the date of this letter, that your authority will take the steps set out above. Please also, when confirming that this will be done, indicate the proposed date for this matter to be taken back to the Planning Committee for reconsideration.

We act for Mr. Bussey in this matter and any correspondence should be addressed to this firm using the reference given at the head of this letter. A copy of this letter has been sent to the applicant's agent and to the Director of Regeneration and Planning at your Council.

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

Yours faithfully,  
**JACKSONS C&PL LLP.**

**BY FAX : 01429 284009**

c.c. Mr. R. Bussey  
B.3 Burgess  
Director-Regeneration and Planning, Hartlepool Borough Council



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

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## **Introduction**

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

3.2 The purpose of this report is as follows:-

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

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

## **The grounds for the challenge**

3.3 The local resident's allegation is essentially that the Local Planning Authority failed to give due regard to Policy Hsg 12 of the Local Plan in arriving at its decision. Policy Hsg 12 states that proposals for residential institutions will be approved subject to considerations of amenity, accessibility to public transport, shopping and other community facilities and appropriate provision of parking and amenity space.

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



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

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

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

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

### **Consideration of the grounds for the challenge**

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

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

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

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

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

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

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

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

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

## **Conclusion**

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

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

In the interests of highway safety and the amenities of the occupiers of nearby houses.

The Committee considered representations in relation to this matter.

**Number:** H/2005/5486

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

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

**Date received:** 03/06/2005

**Development:** Extension to store to provide additional sales and storage areas and associated works

**Location:** TESCO STORES LTD, BELLE VUE WAY, HARTLEPOOL

**Representations:** None.

**Decision:** **Deferred for additional information**

**Number:** H/2006/0338

**Applicant:** Mr W Morgan

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

**Date received:** 03/05/2006

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

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

**Representations:** Mr W Morgan (applicant) and Mr Gardner (objector's representative) were present at the meeting and addressed Members.

**Decision:** **Members reaffirmed their earlier decision that they were minded to APPROVE this application subject to a legal agreement under S106 of the Planning Act to secure a travel plan aimed at transporting staff to the site, a restriction on the occupancy of the apartments**

**to people 55 and over, securing the proposed care elements for occupiers of the apartments in perpetuity and to a requirement for the additional parking spaces to be put in place in the future should the Local Planning Authority decide this to be necessary and the following condition(s), with the addition that transport should also be made available for use by occupiers of the care home and apartments for the purpose of any social, leisure and/or health related visits to nearby centres.**

## **CONDITIONS AND REASONS**

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

approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Redamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Redamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority. To ensure that any site contamination is addressed.

8. No development shall take place until a scheme for the protection during construction works of all trees to be retained on or adjoining the site, in accordance with BS 5837:2005 (Trees in relation to construction - Recommendations), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.  
In the interests of the health and appearance of the preserved tree(s).
9. A detailed scheme for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented before the development hereby approved is brought into use.  
In the interests of visual amenity.
10. The cycle parking facilities hereby approved shall be made available for use before the care home is brought into use.  
To ensure facilities for means of transport other than the car are available on site.

The Committee considered representations in relation to this matter.

**Number:** H/2006/0472

**Applicant:** Mr G Raynor  
ELDON GROVE, HARTLEPOOL

**Agent:** Mr D Cole, 18 Oakland Avenue, Hartlepool

**Date received:** 03/07/2006

## (PLANNING CTTEE 30.8.06 APPENDIX)

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

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### The Application and Site

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

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

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

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

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

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

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

1.8 As well being able to access the care homes staff, the apartments residents will also be able to use the Care Homes communal facilities. This maybe a trip to the

hairdressers, using laundry facilities or a social visit to the communal lounge which forms the focal point of the village garden.

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

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

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

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

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

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

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

## **Publicity**

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

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

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

Copy letters G

The period for publicity has expired.



## Consultations

1.15 The following consultation replies have been received:

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

**Head of Public Protection** – No objection

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

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

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

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

**Northumbrian Water** – No objections

**Stockton Borough Council** – No comments

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

## Planning Policy

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

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

GEP12: States that the Borough Council will seek within development sites, the retention of existing and the planting of additional, trees and hedgerows. Development may be refused if the loss of, or damage to, trees or hedgerows on or

adjoining the site will significantly impact on the local environment and its enjoyment by the public. Tree Preservation Orders may be made where there are existing trees worthy of protection, and planning conditions will be imposed to ensure trees and hedgerows are adequately protected during construction. The Borough Council may prosecute if there is damage or destruction of such protected trees.

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

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

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

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

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

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

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

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

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

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

## **Planning Considerations**

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

### Policy issues

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

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

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

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

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

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

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

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

### Highway safety

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

### Residential amenity

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

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

### Visual impact

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

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

### Nature Conservation

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

### Other matters

#### Noise and cooking odours

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

### Security

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

### Restrictions over the occupation of the apartments

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

### Precedent

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

### Request for the application to be called in

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

#### Environment Impact Assessment Regulation

1.37 The EIA regulations list categories of development which may need to be subject to a formal assessment subject to scale and sensitivity of location. The nearest category of land use listed in the regulations to what is proposed in this case would be an urban development project. It is not certain that the development could be accurately described as such given its rural location. The regulations indicate where such developments are proposed on sites of more than 0.5 ha the Local Planning Authority should take a view as to whether EIA is required (A screening opinion). However, with respect to this category of development the guidance states that EIA is more likely to be required if the site area is more than 5ha, it would provide more than 10,000m<sup>2</sup> of commercial floorspace or would have significant urbanising effects in a previously non urbanised area e.g. a new development of more than 1000 dwellings. None of the above criteria would be met in this case and as such it is considered unreasonable to request an Environmental statement.

#### Construction related disturbance/property devaluation

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

#### Drainage

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

#### Bin storage

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

#### Conclusion

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

- 1 Wynyard is not a sustainable community

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

Approval is therefore recommended.

**RECOMMENDATION** – Approve subject to the following conditions and to a planning agreement to secure a travel plan aimed at transporting staff to the site, a restriction on the occupancy of the apartments to people 55 and over securing the proposed care elements for occupiers of the apartments in perpetuity and to a requirement for the additional parking spaces to be put in place in the future should the Local Planning Authority decide this to be necessary.

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
3. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.  
In the interests of visual amenity.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.  
In the interests of visual amenity.
5. The kitchen windows serving the specific type B apartments shown on the attached plan shall be obscure glazed.  
In order to protect the privacy of residents.

6. The car parking scheme hereby approved shall be completed prior to the development hereby approved being brought into use.  
In the interests of highway safety.
7. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Redamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.  
To ensure that any site contamination is addressed.
8. No development shall take place until a scheme for the protection during construction works of all trees to be retained on or adjoining the site, in accordance with BS 5837:2005 (Trees in relation to construction - Recommendations), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.  
In the interests of the health and appearance of the preserved tree(s).
9. A detailed scheme for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented before the development hereby approved is brought into use.  
In the interests of visual amenity.



**Number:** H/2006/0338

**Applicant:** Mr W Morgan

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

**Date received:** 03/05/2006

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

**Location:** On The Corner of The Wynd Wynyard Billingham

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

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

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

## **CONDITIONS AND REASONS**

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.  
To clarify the period for which the permission is valid.
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.  
In the interests of visual amenity.
3. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before

the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.

In the interests of visual amenity.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.  
In the interests of visual amenity.
5. The kitchen windows serving the specific type B apartments shown on the attached plan shall be obscure glazed.  
In order to protect the privacy of residents.
6. The car parking scheme hereby approved shall be completed prior to the development hereby approved being brought into use.  
In the interests of highway safety.
7. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.  
To ensure that any site contamination is addressed.
8. No development shall take place until a scheme for the protection during construction works of all trees to be retained on or adjoining the site, in accordance with BS 5837:2005 (Trees in relation to construction - Recommendations), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development. Nothing shall be stored or placed in any area fenced in

accordance with this condition. Nor shall the ground levels within these areas be altered or any excavation be undertaken without the prior written approval of the Local Planning Authority. Any trees which are seriously damaged or die as a result of site works shall be replaced with trees of such size and species as may be specified in writing by the Local Planning Authority in the next available planting season.

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

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

In the interests of visual amenity.

10. The cycle parking facilities hereby approved shall be made available for use before the care home is brought into use.  
To ensure facilities for means of transport other than the car are available on site.

**PLANNING COMMITTEE**21<sup>st</sup> March 2007**Report of:** Chief Solicitor**Subject:** PLANNING CODE OF PRACTICE

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**1. PURPOSE OF REPORT**

This report follows earlier reports to Planning Committee, most notably that presented before Committee on the 22<sup>nd</sup> November, 2006, wherein Members deferred consideration pending a special committee meeting. This report appraises Members in more detail of some of the anticipated revisions to the Members Code of Conduct, which changes would need to be reflected within the draft Planning Code of Practice. As such revisions to the Members Code of Conduct are anticipated later this year, it is recommended that a further report and due consideration be given to the adoption of a Planning Code of Practice, following the introduction of changes to the Code of Conduct.

**2. BACKGROUND**

- 2.1 The Local Government Act, 2000, established an ethical framework for Local Government. The earlier recommendations of the Nolan Committee for Standards in Public Life recognised a significant area of public concern surrounding the proper discharge of Local Authorities' planning functions and the requirement for the adoption and development of an ethical framework of conduct and standards in public life. Members, as part of various training initiatives, have been provided with a draft Planning Code of Practice and the contents of the same has already been considered by the Council's Standards Committee. The role of Planning Committee is to provide commentary, following detailed consideration of this document, leading to an eventual recommendation for formal adoption by Council. The "constitutional" route for the ultimate approval of this document, is provided under para 2.3 of the earlier report submitted to the Planning Committee on the 22<sup>nd</sup> November, 2006.
- 2.2 A report issued through the Department for Communities and Local Government (January 2007): Councillor Involvement in Planning Decisions, noted that many Authorities had based their code "closely on national guidance, especially the Local Government Association's "Probity and

Planning” (2002) document. Whilst more recent guidance has been issued, notably through the Planning Advisory Service: “Positive Engagement” (2005), such guidance seeks to encourage Member involvement within the planning process “within clear rules”. It should be noted, that the Local Government Association’s guidance is presently under review in light of the revisions to the planning system and the anticipated revisions in relation to the Member’s Code of Conduct. However, the report issued through the Department for Communities and Local Government notes;

- that the activities of all elected Members (and officers) are strictly defined through the Local Authorities’ Code of Conduct. Some authorities having based their codes closely on the national Model Code of Conduct (adopted under Part III of the Local Government Act, 2000).
- some Authorities have adapted the text of the Model Code of Conduct to reflect their local circumstances, informed by some of the guidance issued through the Local Government Association, the Standards Board for England and the Royal Town Planning Institute.
- the code sets out what is considered to be appropriate conduct for all Members of the Council.
- many Authorities have adopted additional guidance for Members of their Planning Committee (some Authorities requiring all of its Members to abide by its Planning Code of Practice, not just those serving on the Planning Committee).

2.3 A key recommendation within the Department for Communities and Local Government is that Authorities should update their Codes of Conduct (particularly in relation to early Member-involvement) and that such Codes of Conduct should include advice which relates specifically to the planning process with clear lines of engagement being established. The draft Planning Code of Practice which has previously been presented to Members draws upon guidance issued through, amongst others, the Local Government Association, the Royal Town Planning Institute and the Audit Commission. Subject to necessary revisions, as indicated within this report, such a Planning Code of Practice will undoubtedly assist both Members and officers and also members of the public in establishing those “clear lines of engagement” as noted above.

### **3. PROPOSED AMENDMENTS TO THE MODEL CODE OF PRACTICE**

3.1 A report has recently been presented to the Council’s Standards Committee on the Department for Communities and Local Government document entitled “Consultation on Amendments to the Model Code of Conduct for Local Authority Members” which required responses by the 9<sup>th</sup> March, 2007. The Local Government White Paper, “Strong and Prosperous Communities” (October, 2006) indicated the Government’s proposals for a “clearer, simpler

and more proportionate Model Code of Conduct'. These proposals entail a more integrated conduct system with local ownership and local decision-making through improving the effectiveness of local Standards Committees, simplifying the Code of Conduct for Members and introducing a Code of Conduct for Local Government employees. Of note, the Standards Board for England would have a "new strategic, regulatory role to ensure consistency of standards". Additionally, the Government propose changes to the Local Government Act, 2000 through the Local Government and Public Involvement and Health Bill which seeks to clarify the position following-on from the High Court decision relating to the conduct of the Mayor of London. That particular action established that the 2000 Act embodied through the Code of Conduct had no application to Members in their private lives. The proposed changes therefore seek to achieve what was the original intention behind the Code of Conduct, namely, where action could be taken against a Member who brought the Authority or the office of Councillor into disrepute.

3.2 The consultation document proposes the following revisions to the Code of Conduct;

- Proscribing Members from doing anything that would seriously prejudice their Authority's statutory duties in regard to equality.
- A provision specifically proscribing bullying.
- To allow Members to disclose confidential information where such disclosure is in the public interest (provided the disclosure is in good faith and reasonable).
- Certain behaviour in a private capacity might be included within the remit of the code ie where such behaviour brought a person's office or authority into disrepute.
- Proscribing Members' attempts to using or seeking to use improper influence.
- The need for a Member to have regard to the guidance set out in the Government's Local Authority Publicity Code.
- To delete the existing duty for a Member to report breaches of the code by other Members and to have a proscription on the intimidation of complainants and witnesses.
- To amend reference in the current Code to friends and family by adding reference to any person with whom the Member has a 'close personal association'.
- To replace the reference to the inhabitants of an Authority's area with provision that Members should not be required to register an interest

in a matter unless the matter is greater than that of the majority of the inhabitants of the ward affected by the matter.

- To create a new category of “public service interest” which would arise where a Member is also a member of another public body, and for the public service interest only to be declared at meetings where the Member speaks on the relevant issue.
- To simplify and amend the list of exemptions where Members should not regard themselves as having a prejudicial interest (ie in the provision of indemnities, setting of Council Tax and considerations of whether or not the Member should become a freeman of the Authority).
- To provide a clearer prejudicial interest test to apply to public service interests and where Members attend to make representations.

3.3 As indicated in previous reports, the main purpose of the code is to protect from criticism the conduct of Members in the planning process, providing a clear framework to deal with potential problems through assisting in making decisions in the public interest. Such decision-making, being against the background of openness and transparency. The Planning Code of Practice seeking to explain and supplement the Members’ Code of Conduct for the purposes of planning control. Again, as noted previously, the text of the draft Planning Code of Practice will need to be amended in the light of the above revisions coming into force. Members will be particularly aware of the proposed revision relating to the participation of Members where there may be a prejudicial interest. The Government seeks to introduce more clearer and proportionate rules for those who have a “public sector interest”. In such cases, such an interest would generally be considered prejudicial where;

- (i) the matter relates to the financial affairs of the body concerned, or
- (ii) the matter relates to the determining of any approval, consent, license or permission (eg in respect of planning and licensing) in relation to the body.

Where a Member who has a public service interest and neither of the above points apply at (i) and (ii), then no prejudicial interest would arise and the Member may speak and vote at the meeting. Where a Member, including a Member with a “public service interest”, to which (i) and (ii) applies, such a Member will be deemed not to have a prejudicial interest where they attend at a meeting to make representations, asks questions or give evidence, provided the Committee agrees that the Member may do so. Following, Members answering such questions or giving such evidence, the Member concerned should then withdraw from the room where the meeting is being held. This reiterates the present requirement that Members “should not seek improperly to influence a decision about the matter” in hand.

- 3.4 In the light of the proposed changes as more particularly illustrated in the draft statutory instrument appended hereto (see Annex A) Members are requested to note the contents of this report and to defer consideration of this item until the revisions to the Code of Conduct have statutory force. In the meantime Members are requested to further note the general principles as enunciated within the draft Planning Code of Practice. There will also be the opportunity for appropriate training to be given to Members upon the revisions to the Member's Code of Conduct and its impact upon any Planning Code of Practice.

#### **4. RECOMMENDATIONS**

- 1 That Members note the contents of this report.
- 2 That Members subsequently consider the draft Planning Code of Practice as revised in the light of revisions to the Code of Conduct at a special meeting.
- 3 That appropriate training and support be provided to Members in relation to the revisions to the Code of Conduct and its impact upon a consideration of the adoption of a Planning Code of Practice.



# Annex A

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## STATUTORY INSTRUMENTS

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[2007] No. [xxx]

### LOCAL GOVERNMENT, ENGLAND AND WALES

#### The Local Authorities (Model Code of Conduct) Order [2007]

*Made* - - - - - .xxx

*Laid before Parliament* .xxx

*Coming into force* - - - .xxx

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000(a).

The Secretary of State has consulted in accordance with section 50(5) of that Act.

The Secretary of State is satisfied that this Order is consistent with the principles for the time being specified in an order under section 49 of that Act.

#### **Citation, commencement, application and interpretation**

1.—(1) This Order may be cited as the Local Authorities (Model Code of Conduct) Order [2007] and comes into force on [xxx].

(2) This Order applies—

- (a) in relation to police authorities in England and Wales; and
- (b) in relation to the following authorities in England—
  - (i) a county council;
  - (ii) a district council;
  - (iii) a London borough council;
  - (iv) a parish council;
  - (v) the Greater London Authority;
  - (vi) the Metropolitan Police Authority;
  - (vii) the London Fire and Emergency Planning Authority;
  - (viii) the Common Council of the City of London;
  - (ix) the Council of the Isles of Scilly;
  - (x) a fire and rescue authority;
  - (xi) a joint authority;
  - (xii) the Broads Authority; and

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(a) 2000 c.22.

- (xiii) a National Park authority,  
and references to “authority” are construed accordingly.

### **Model Code of Conduct**

**2.**—(1) The Secretary of State here issues a model code as regards the conduct which is expected of members and co-opted members of authorities and that code is set out in the Schedule to this Order.

(2) Subject to paragraphs (3) to (6), all the provisions of the model code in the Schedule to this Order are mandatory.

(3) The following provisions of the model code in the Schedule are not mandatory for authorities which are not operating executive arrangements—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 8(6), 8(7)(b), 10, 11(1)(b) and 11(2).

(4) The following provisions of the model code in the Schedule are not mandatory for police authorities, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, a fire and rescue authority and a joint authority—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 5(b)(iii), 8(6), 8(7)(b), 9(2)(b)(i), 9(2)(b)(ii), 10, 11(1)(b) and 11(2).

(5) The following provisions are not mandatory for parish councils—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 6, 8(6), 8(7)(b), 9(2)(b)(i), 9(2)(b)(ii), 10, 11(1)(b) and 11(2).

(6) The following provisions are not mandatory for a National Parks authority and the Broads Authority—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 8(6), 8(7)(b), 9(2)(b)(i), 9(2)(b)(ii), 10, 11(1)(b) and 11(2).

### **Disapplication**

**3.** Where an authority has adopted a code of conduct or such a code applies to it, the following shall, where applicable to the authority, be disapplied as respects that authority—

- (a) sections 94 to 98 and 105 to the Local Government Act 1972;
- (b) section 30(3A) of the Local Government Act 1974;
- (c) regulations made or code issued under section 19 and 31 of the Local Government and Housing Act 1989;
- (d) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995;
- (e) in section 17 of the Audit Commission Act 1998, subsections (1)(b), (3), (5)(b), (7) and (8) and in subsection (2), the words “subject to subsection (3)” and paragraphs (a) and (b);
- (f) section 18 of the Audit Commission Act 1998; and
- (g) any guidance issued under section 66 of the Greater London Authority Act 1999.

## Revocation and savings

4.—(1) Subject to paragraphs (2) and (3), the following orders are revoked—

- (a) the Local Authorities (Model Code of Conduct) (England) Order 2001(a);
- (b) the Parish Councils (Model Code of Conduct) Order 2001(b);
- (c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(c);
- (d) the Police Authorities (Model Code of Conduct) Order 2001(d).

(2) The Orders referred to in paragraph (1) continue to have effect for the purposes of and for purposes connected with —

- (a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation was made before the date when, pursuant to section 51 of that Act—
  - (i) the authority adopts a code of conduct incorporating the mandatory provisions of the model code of conduct in the Schedule to this Order in place of their existing code of conduct;
  - (ii) the authority revises their existing code of conduct to incorporate the mandatory provisions of the model code of conduct in the Schedule to this Order; or
  - (iii) the mandatory provisions of the model code of conduct in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;
- (b) the adjudication of a matter raised in such an allegation; and
- (c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.

Signed on behalf of the Secretary of State for Communities and Local Government

*Name*  
[Minister for.....]

[Date] Department for Communities and Local Government

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(a) S.I. 2001/3575.  
 (b) S.I. 2001/3576.  
 (c) S.I. 2001/3577.  
 (d) S.I. 2001/3578.

## SCHEDULE

### THE MODEL CODE OF CONDUCT

#### PART 1

##### General Provisions

##### *Interpretation*

In this Code—

“meeting” means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member;

“the authority’s monitoring officer”, in relation to parish councils, is construed as referring to the monitoring officer of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000; and

“the authority’s standards committee”, in relation to parish councils, is construed as referring to the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000.

##### *Scope*

1.—(1) A member must observe the authority’s code of conduct whenever he or she—

- (a) conducts the business of the authority;
- (b) conducts the business of the office to which he or she is elected or appointed; or
- (c) acts as a representative of the authority,

and references to a member’s official capacity is construed accordingly.

(2) An authority’s code of conduct does not, apart from paragraphs 2(2)(c), 4 and 5(a), have effect in relation to the activities of a member undertaken other than in an official capacity.

(3) Where a member acts as a representative of the authority—

- (a) on another relevant authority, he or she must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, he or she must, when acting for that other body, comply with the authority’s code of conduct, except insofar as it conflicts with any other lawful obligations to which that other body may be subject.

##### *General obligations*

2.—(1) A member must treat others with respect.

(2) A member must not—

- (a) do anything which may seriously prejudice his or her authority's ability to comply with any of its statutory duties under the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) in his or her official capacity, or any other circumstance, intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) supporting the administration of any investigation or proceedings, in relation to an allegation that a member has failed to comply with his or her authority's code of conduct;
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(a) those who work for, or on behalf of, the authority are deemed to include a police officer.

**3. A member must not—**

- (a) disclose information given to him or her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where—
  - (i) he or she has the consent of a person authorised to give it;
  - (ii) he or she is required by law to do so; or
  - (iii) the disclosure is—
    - (aa) reasonable and in the public interest;
    - (bb) made in good faith and does not breach any reasonable requirements of the authority;
- (b) prevent another person from gaining access to information to which that person is entitled by law.

**4.—(1)** A member must not in his or her official capacity, or any other circumstance, conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute.

(2) The conduct referred to in paragraph (1) may include a criminal offence including one committed by the member before taking office but for which he or she is not convicted until after that date.

**5. A member—**

- (a) must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the authority—
  - (i) act in accordance with the authority's requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (iii) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

**6. A member must when reaching decisions—**

- (a) have regard to any relevant advice provided to him or her by—
  - (i) the authority's chief finance officer; and
  - (ii) the authority's monitoring officer; and

- (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements.

## PART 2

### Interests

#### *Personal interests*

#### 7. A member has a personal interest in any matter where—

- (a) it relates to—
  - (i) any employment or business carried on by the member;
  - (ii) any person who employs or has appointed the member;
  - (iii) any person, other than a relevant authority, who has made a payment to the member in respect of his or her election or any expenses incurred by him or her in carrying out his or her duties;
  - (iv) any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body (whichever is the lower);
  - (v) any contract for goods, services or works made between the authority and the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
  - (vi) any gift or hospitality over the value of £25 received by the member;
  - (vii) any land in the authority's area in which the member has a beneficial interest;
  - (viii) any land where the landlord is the authority and the tenant is the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
  - (ix) any land in the authority's area in which the member has a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) it relates to his or her membership of or position of general control or management in any—
  - (i) body to which the member is appointed or nominated by the authority;
  - (ii) public authority or body exercising functions of a public nature;
  - (iii) company, industrial and provident society, charity, or body directed to charitable purposes;
  - (iv) body whose principal purposes include the influence of public opinion or policy, including any political party; and
  - (v) trade union or professional association; or
- (c) a decision on the matter might reasonably be regarded as affecting the well-being or financial position of—
  - (i) the member, one of the member's family or a friend, or any person with whom the member has a close personal association; or
  - (ii) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (iii) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (iv) any body listed in paragraphs (i) to (v) of sub-paragraph (b) in which such persons hold a position of general control or management,to a greater extent than the majority of—

- (aa) in the case of authorities with electoral divisions or wards, other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
- (bb) in the case of the Greater London Authority, other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
- (cc) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

#### *Disclosure of personal interests*

**8.—**(1) Subject to sub-paragraphs (2) to (7), a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) A member with a personal interest in a matter which is a public service interest, need only disclose to that meeting the existence and nature of that interest when he or she addresses the meeting on that matter.

(3) A member with a personal interest of the type mentioned in paragraph 7(a)(vi) need not disclose the nature or existence of that interest to the meeting if the interest was registered more than five years before the date of the meeting.

(4) In relation to a personal interest of a family member, a friend, or any person with whom the member has a close personal association, sub-paragraph (1) only applies where the member is aware or ought reasonably to be aware of the interest.

(5) Where, by virtue of paragraph 13, sensitive information relating to a member is not registered in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000), a member with a personal interest must indicate to the meeting that he or she has a personal interest, but need not disclose the sensitive information to that meeting.

(6) Subject to paragraph 11(1)(b), a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph—

- (a) a member has a public service interest in a matter where that matter relates to—
  - (i) another relevant authority of which he or she is a member;
  - (ii) another public authority in which he or she holds a position of general control or management; or
  - (iii) a body to which he or she is appointed or nominated by the authority; and
- (b) “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

#### *Prejudicial interests*

**9.—**(1) Subject to sub-paragraphs (2) and (3), a member with a personal interest in a matter also has a prejudicial interest in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

(2) A member does not have a prejudicial interest in a matter where—

- (a) he or she has a public service interest in the matter, unless—
  - (i) the matter relates to the financial affairs of the body to which that public service interest relates; or

- (ii) the matter relates to the determining of any approval, consent, licence, permission or registration in relation to that body;
- (b) that matter relates to the functions of the authority in respect of—
  - (i) housing, where he or she is a tenant of the authority provided that those functions do not relate particularly to the member's tenancy or lease;
  - (ii) school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;
  - (iv) an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989;
  - (v) an indemnity given under an order made under section 101 of the Local Government Act 2000;
  - (vi) considering the bestowing of the title of freeman on the member; and
  - (vii) setting council tax under the Local Government Finance Act 1992.
- (3) A member does not have a prejudicial interest in a matter where he or she attends a meeting for the purpose of making representations, answering questions or giving evidence relating to the matter, provided the meeting agrees that the member may do so and after making representations, answering questions or giving evidence, the member withdraws from the room where the meeting is being held.
- (4) In this paragraph, a member has a public service interest in a matter where that matter relates to—
  - (a) any of the matters referred to in paragraph 8(7)(a); or
  - (b) a charity, a lobbying or philanthropic body of which he or she is a member.

#### *Overview and scrutiny committees*

- 10.**—(1) For the purposes of this Part, a member has a prejudicial interest where he or she is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee and that consideration relates to a decision made (whether implemented or not), or action taken by—
- (a) the authority's executive;
  - (b) another of the authority's—
    - (i) committees or sub-committees; or
    - (ii) joint committees or joint sub-committees,
- of which he or she is, or was at the time of the decision or action, a member and he or she was present for the consideration of that matter.
- (2) But sub-paragraph (1) does not apply where that member attends the meeting of the overview and scrutiny committee for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

#### *Participation in relation to prejudicial interests*

- 11.**—(1) Subject to sub-paragraphs (2) and (3), a member with a prejudicial interest in a matter must—
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the authority's standards committee;
  - (b) not exercise executive functions in relation to that matter; and



- (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest in a matter may, unless that interest is of a financial nature or of the type described in paragraph 10, participate in a meeting of the authority's—
  - (a) overview and scrutiny committees; and
  - (b) joint or area committees,
 to the extent that such committees are not exercising functions of the authority or its executive.
- (3) In this paragraph, a member has a public service interest in a matter where that matter relates to—
  - (a) any of the matters referred to in paragraph 8(7)(a); or
  - (b) a charity, a lobbying or philanthropic body of which he or she is a member.

## PART 3

### Registration of Members' Interests

#### *Registration of Members' Interests*

- 12.—**(1) A member must, within 28 days of—
- (i) the provisions of an authority's code of conduct being adopted or applied to that authority; or
  - (ii) his or her election or appointment to office (where that is later),
- register in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) any personal interest of the type mentioned in paragraph 7(a) or (b), by providing written notification to the authority's monitoring officer.
- (2) A member must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under in paragraph (1), register that new personal interest or change by providing written notification to the authority's monitoring officer.
- (3) Sub-paragraphs (1) and (2) do not apply to sensitive information in relation to which the member has made an application under paragraph 13.

#### *Sensitive information*

- 13.—**(1) Where a member considers that the availability for inspection by the public of information relating to any personal interest which, but for this paragraph, must be registered in the authority's register of members' interests creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation (in this Code "sensitive information"), the member may, where the monitoring officer considers it appropriate, not include that sensitive information on the register of members' interests.
- (2) A member must, within 28 days of becoming aware of any change of circumstances which leads him or her to believe that information excluded from the authority's register of members' interests is no longer sensitive information, notify the authority's monitoring officer of this fact and register the information concerned in the authority's register of members' interests.

### EXPLANATORY NOTE

*(This note is not part of the Order)*

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. Under section 51 of the Local Government Act 2000, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the model code. Under section 51(5) of that Act, where an authority

does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the model code will apply to the members of the authority until it does.

**Article 1** provides that this Order applies to relevant authorities in England and police authorities in England and Wales.

**Article 2** provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

**Article 3** revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001(a);

the Parish Councils (Model Code of Conduct) Order 2001(b);

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(c);

the Police Authorities (Model Code of Conduct) Order 2001(d).

These Orders continue to have effect in relation to allegations made before the date when the new code is adopted or applied to an authority.

The disapplication of certain enactments made by these Orders continues to have effect.

In the **Schedule to the Order**—

**Paragraph 1** of the model code provides that the code applies whenever a member is acting in his or her official capacity, and that it does not apply in other circumstances unless otherwise indicated. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

**Paragraph 2** provides that members must treat others with respect and not do anything which compromises the impartiality of those who work for the authority or bully anyone or intimidate persons involved in code of conduct cases.

**Paragraph 3** provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

**Paragraph 4** provides that in a member's official capacity and in other circumstances, a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

**Paragraph 5** provides that a member must not in his or her official capacity or in other circumstances use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's requirements and must not permit those resources to be used for political purposes.

**Paragraph 6** provides that in reaching decisions a member must consider advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

**Paragraph 7** provides a list of matters which constitute a personal interest in a matter.

**Paragraph 8** provides that a member with a personal interest in a matter must disclose that interest at any meeting at which the matter is considered.

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(a) S.I. 2001/3575.

(b) S.I. 2001/3576.

(c) S.I. 2001/3577.

(d) S.I. 2001/3578.

**Paragraph 9** provides that a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his judgement of the public interest. The paragraph provides that in the circumstances specified a member may regard himself as not having a prejudicial interest.

**Paragraph 10** provides that a member who was involved in making an executive decision on a matter must not be involved in the overview and scrutiny committee's consideration of that matter, except in order to answer questions from that committee.

**Paragraph 11** provides that a member with a prejudicial interest must, unless he has obtained a dispensation, withdraw from any meetings at which the matter is being considered, and must not improperly influence decisions in relation to the matter.

**Paragraph 12** provides that a member must notify the monitoring officer of the personal interests and any change to those interests must also be notified.

**Paragraph 13** provides that a member may notify the monitoring of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

**Report of:** Assistant Director (Planning & Economic Development)

**Subject:** UPDATE ON CURRENT COMPLAINTS

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**1. PURPOSE OF REPORT**

- 1.1 During this four (4) week period, thirty six (36) planning applications have been registered as commencing and checked. Thirty three (33) required site visits resulting in various planning conditions being discharged by letter.

**2. BACKGROUND**

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

1. A neighbour complaint about the height of a hedge in the garden of a property on Ryehill Gardens has been investigated and concluded that, not enough communications between the two neighbours had occurred therefore no action would be taken in order to resolve this matter at this time. Any developments will be reported to a future meeting if necessary.
2. An anonymous complaint about the possibility of a mini-bus hire business operating from a residential property on Spurn Walk is being investigated. Developments will be reported to a future meeting if necessary.
3. A neighbour complaint about the change of use of land to a car park at Dalton Street is being investigated and developments will be reported to a future meeting if necessary.
4. An officer complaint about the siting of a food trailer in a public house car park on Catcote Road is being investigated any further developments will be reported to a future meeting if necessary.

5. An officer complaint about the possibility of a breach of condition is being investigated at a property on St Andrew s Grove. Development will be reported to a future meeting if deemed necessary.
6. An officer complaint about the alleged change of use from car sales to a haulage yard is being investigated at land on Brenda Road. Any developments will be reported to a future meeting if necessary.
7. An officer complaint about three (3) untidy buildings on the Marina, Durham Street and Turnbull Street is being investigated. Enforcement action could conclude that sites/buildings are tidied any further developments will be reported to a future meeting if necessary.

**Report of:** Assistant Director (Regeneration and Planning)

**Subject:** ENFORCEMENT ACTION – TITAN HOUSE  
CORNER OF PARK ROAD & YORK ROAD  
HARTLEPOOL

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## **1. PURPOSE OF REPORT**

- 1.1 To recommend that members agree to enforcement action should this be required in respect of the untidy condition of Titan House, situated on the corner of Park Road and York Road, Hartlepool, by way of issuing a Section 215 Notice.

## **2 BACKGROUND**

- 2.1 Titan House is comprised of a 6-storey high office block and associated ground floor retail units, which occupies a prominent location at the junction of Park Road and York Road within the town centre.
- 2.2 Although only 1 of the 12 retail units is currently unoccupied, the entire 6-storey office block is vacant, which has resulted in vandalism to the rear elevation of the building by way of windows having been broken and graffiti. Suitable steps have not been taken by the owner(s) of the premises to repair broken windows or to clean up graffiti and as such the site has fallen into a state of disrepair. Some boarding up of broken windows has been undertaken, however the materials used are aesthetically unsympathetic and the works in general have been carried out to a poor standard. The general untidy appearance of the building is having an adverse impact upon the amenity and general appearance of the street scene given its prominent location (see photographs 1-6 appendix 1).
- 2.3 The site is one of several untidy sites within the Borough that are subject to investigation by the Derelict & Unused Property & Land Group, a Council led working group, which aims to improve the appearance of abandoned properties and land.
- 2.4 Under Section 215 of the Town and Country Planning Act 1990 the Borough Council have the power to require the proper maintenance of land and buildings where it is considered that the condition 'adversely affects the amenity of the area'. The Notice must specify the steps that need to be undertaken to abate the harm to the amenity of the area and the period within which they are to be taken.
- 2.5 Given that the owner of the site has not taken any suitable steps to halt the deterioration of the premises and given the prominent location of

the building within the town centre primary shopping area, it is considered expedient in the public interest for the Council to seek a satisfactory resolution to the problem. The owners have been advised of the Council's concerns and of the fact that the matter is to be referred to committee; a reply is anticipated, however to avoid unnecessary delays it is considered expedient to secure Member agreement to enforcement action should this prove necessary.

### **3. RECOMMENDATION**

- 3.1 That in the event that the site owner will not agree to voluntarily undertake remedial actions the Development Control Manager, in consultation with the Chief Solicitor be authorised to issue a section 215 notice requiring the landowner to undertake the following steps to abate the harm that is being caused to the amenity of the area:

Remove all boarding from windows above ground level

- Re-glaze all broken windows above ground floor level using a transparent polycarbonate glass alternative if appropriate (to prevent further breakages).
- Paint all ground floor doors to the rear of the building using a suitable colour to match existing materials
- Remove all graffiti from exterior of the building in its entirety
- Clear all debris and litter from the doorways and external areas of the premises
- Clean and repaint the remaining signage and lettering currently displayed at the main entrance to the building
- Clean and repaint all areas of paintwork above the main entrance door to the building
- Replace the broken glass in the main entrance door to the building

- 3.2 It is recommended that a period of two months from the date the notice takes effect be given for compliance with the steps specified.

## Appendix

**Photograph 1: Rear of premises viewed from Park Road**



**Photograph 2: Broken windows to the rear of building**





**Photograph 3: Graffiti and litter**



**Photograph 4: Graffiti to rear doors**



**Photograph 5: Main entrance to Titan House**



**Photograph 6: Peeling paintwork above main entrance**



**Report of:** Assistant Director (Planning and Economic Development)

**Subject:** APPEAL BY MR WEED, 18 LOWTHIAN ROAD

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## **1 PURPOSE OF REPORT**

- 1.1 A planning appeal has been lodged against the refusal of the Committee to grant planning permission for alterations and use as offices at 18 Lowthian Road Hartlepool.
- 1.2 The appeal is to be decided by written representations and authority is therefore requested to contest the appeal

## **2 RECOMMENDATION**

- 2.1 Authority be given to officers to contest this appeal.

**Report of:** Assistant Director (Planning and Economic Development)

**Subject:** APPEAL REF APP/H0724/A/07/2038902/NWF:  
H/2006/0834 VARIATION OF CONDITION 2  
ATTACHED TO PLANNING APPROVAL H/2005/5500  
TO ALLOW SUNDAY OPENING BETWEEN THE  
HOURS OF 9 a.m. AND 10.30 p.m, 34A DUKE  
STREET, HARTLEPOOL, TS 25 5RJ

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**1. PURPOSE OF REPORT**

- 1.1 A planning appeal has been lodged against the refusal of the Committee to allow the variation of condition 2 attached to planning approval H/2005/5500 to allow Sunday opening between the hours of 9a.m and 10.30pm at 34a Duke Street, Hartlepool.
- 1.2 The appeal is to be decided by written representation and authority is therefore requested to contest the appeal.

**2. RECOMMENDATION**

- 2.1 Authority be given to officers to contest this appeal.