

# PLANNING COMMITTEE AGENDA



**Wednesday, 16<sup>th</sup> May 2007**

**at 10.00 a.m.**

**in**

**The Council Chamber  
Civic Centre, Hartlepool**

## MEMBERS OF PLANNING COMMITTEE:

Councillors Akers-Belcher, R W Cook, S Cook, Henery, Kaiser, Lauderdale, G Lilley, Morris, Payne, Richardson, Worthy and Wright.

### 1. APOLOGIES FOR ABSENCE

### 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

### 3. MINUTES

- 3.1 To confirm the minutes of the meeting held on 18<sup>th</sup> April 2007 *(to follow)*
- 3.2 To confirm the minutes of the Sub-Committee meeting held on 23<sup>rd</sup> April 2007 *(to follow)*

### 4. ITEMS REQUIRING DECISION

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

- 1. H/2007/0220 21 Clifton Avenue
- 2. H/2007/0207 Greenock Road
- 3. H/2007/0134 J & B Recycling
- 4. H/2007/0218 3-9 Church Square
- 5. H/2007/0259 Travellers Rest

#### 4.2 Update on Current Complaints – *Head of Planning and Economic Development*

- 4.3 Conservation Policy Review – *Assistant Director (Regeneration and Planning)*
- 4.4 Untidy Land and Derelict Buildings – A Co-ordinated Approach to their Improvement – *Assistant Director (Planning and Economic Development), Director of Neighbourhood Services and Chief Solicitor*
- 4.5 TPO 180 – Woodland West of Naisberry Park – *Assistant Director (Regeneration and Planning)*
- 4.6 Appeal Ref APP/H0724/A/06/2028579:H/2006/0565 Change of Use to a Hot Food Takeaway (As Use), 122 Oxford Road, Hartlepool, TS15 5RH – *Assistant Director (Planning and Economic Development)*
- 4.7 Appeal by Mrs Melanie Goodwin, 9 Guillemot Close, Bishop Cuthbert, Hartlepool – *Assistant Director (Planning and Economic Development)*
- 4.8 Complaint Files to be Closed – *Assistant Director (Regeneration and Planning)*

**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 4<sup>th</sup> June 2007 at 10.00 am

Next Scheduled Meeting – Wednesday 6<sup>th</sup> June 2007

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

**Subject:** APPEAL REF APP/H0724/A/06/2028579:  
H/2006/0565 CHANGE OF USE TO A HOT FOOD  
TAKEAWAY (A5 USE), 122 OXFORD ROAD,  
HARTLEPOOL, TS15 5RH.

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**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update members of the outcome of a recent planning appeal at 122 Oxford Road, Hartlepool for the change of use to a hot food takeaway (A5 use). The Planning Inspector has now determined the appeal. A copy of the Inspector's report is attached in full.
- 1.2 The appeal was allowed by the Inspectorate. Officers are currently reviewing the merits of the decision.

**2. RECOMMENDATION**

- 2.1 Update to follow.



## Appeal Decision

Site visit made on 19 March 2007

by **Malcolm Rivett BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for  
Communities and Local Government

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Date: 28 March 2007



**Appeal Ref: APP/H0724/A/06/2028579**

**122 Oxford Road, TS15 5RH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr H A Al-Faham against the decision of Hartlepool Borough Council.
- The application Ref H/2006/0565, dated 20 July 2006, was refused by notice dated 12 September 2006.
- The development proposed is a hot food takeaway.

### Procedural Matter

1. No 122 Oxford Road is currently a vacant body piercing/tattoo studio and I have therefore determined the appeal on the basis that change of use to a hot food takeaway is sought. The application form indicates that the hours of operation of the proposal would be 11:00 to 22:00 daily.

### Decision

2. I allow the appeal, and grant planning permission for change of use to hot food takeaway at 122 Oxford Road, TS15 5RH in accordance with the terms of the application, Ref H/2006/0565, dated 20 July 2006, and the site location plan submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
  - 2) The use hereby permitted shall not be open to customers outside the following times: 11:00 to 22:00.
  - 3) The use hereby permitted shall not take place until details of ventilation, filtration and fume extraction equipment have been submitted to, and approved in writing by, the Local Planning Authority. The approved facilities shall be installed prior to the commencement of the use hereby permitted and thereafter retained, operated whenever food is being cooked on the premises and maintained in accordance with the manufacturer's instructions.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring residents with particular regard to noise, disturbance and smells.



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**Reasons**

4. The appeal property is situated in the section of Oxford Road between Fernwood Avenue and Caledonian Road, which mostly comprises commercial premises including a post office, mini-market and an off-licence. Interspersed between the shops there are a number of residential properties, including No 120 Oxford Road, immediately adjacent to the appeal property.
5. I noted that the mini-market and off-licence are both open during the evenings, the latter to 22:00 on weekdays and 22:30 at weekends. In my opinion, therefore, this part of Oxford Road, which is also a main thoroughfare and bus route, is likely to be relatively busy in the evenings until these times. The off-licence is almost directly opposite the appeal property and I do not consider that the arrival and departure of the proposal's customers, whether by car or on foot, would cause any significant disturbance to local residents over and above that associated with the existing evening activity in the area. I am satisfied that with modern fume extraction equipment, which can be secured by condition, smells would not be a problem.
6. Consequently, I find that the proposal would not result in any significant harm to the living conditions of nearby residents and thus has no conflict with policies GEPI and Com 12 of the adopted Hartlepool Local Plan. Policy GEPI states that in determining planning applications the effect on the amenities of adjoining/nearby occupiers will be taken into account and policy Com 12 states that proposals for class A3-A5 uses will only be permitted where there will be no significant detrimental effect on the occupiers of adjoining/nearby properties by reason of noise, disturbance, smell and litter. Policy Com 12 also states that hot food takeaway uses will not be permitted in predominantly residential areas where they adjoin residential properties. However, given that the majority of properties on this section of Oxford Road are commercial, I am of the view that the appeal property is not located in a predominantly residential area.
7. I appreciate that the appeal property shares a party wall with a residential property. However the direct transmission of noise between properties, and measures to restrict it, are covered by other legislation. I envisage that a substantial proportion of the proposal's customers would arrive on foot from the surrounding residential areas. However, there is a parking bay immediately outside No 122, which I consider would be likely to be capable of safely accommodating those customers arriving by car. Consequently I judge that the proposal would be unlikely to be harmful to highway safety.
8. My attention has been drawn to a previous appeal decision in relation to a similar proposal at this property which, I understand, would have been operational until midnight. I agree that in the late evening, after the nearby shops have closed, the operation of a takeaway could significantly harm the current living conditions of nearby residents. I note that the Inspector determining this appeal discounted the possibility of a condition limiting the hours of operation on the basis that the appellant had indicated that such restrictions, suggested by the Council, were unacceptable to him. I am not aware of the hours of operation suggested by the Council in connection with the previous appeal. However, given that the closure time of the current proposal is 22:00, which is within the opening hours of nearby shops, I find, as set out above, there to be no reason to dismiss the appeal. The Council has argued that allowing this proposal would set a precedent for similar schemes, although no specific examples have been identified. I have determined this appeal on its

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own merits and do not consider the generalised fear of precedent good reason not to allow this proposal.

9. I agree that to protect the living conditions of nearby residents conditions are necessary regarding fume extraction equipment and to limit the hours of operation to 11:00 to 22:00 daily. I do not consider it necessary or reasonable to prevent the opening of the proposal on Sundays or Bank Holidays, given that other shops in the vicinity are open on these days.
10. For the above reasons, and having regard to the views of local residents and all other matters raised, I conclude that the appeal should be allowed.

*Malcolm Rivett*

INSPECTOR





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

**Subject:** APPEAL BY MRS MELANIE GOODWIN, 9  
GUILLEMOT CLOSE, BISHOP CUTHBERT,  
HARTLEPOOL

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**1. PURPOSE OF REPORT**

- 1.1 A planning appeal has been lodged against the refusal of the Planning Authority to grant planning permission for the erection of a rear two storey extension comprising a family room with bedroom over and a first floor extension above an existing garage to provide an enlarged bedroom at 9 Guillemot Close.
- 1.2 The appeal is to be decided by the written procedure and authority is therefore requested to contest the appeal.

**2. RECOMMENDATION**

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

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

**Subject:** COMPLAINT FILES TO BE CLOSED

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**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to seek members authority to close outstanding complaint cases.

**2. BACKGROUND**

- 2.1 The Golden Lion PH development has not provided an acoustic fence as indicated on the approved plans. The Council's Senior Public Protection Officer does not consider that it is necessary for an acoustic fence to be provided in this instance. It is therefore requested that no further action is taken.
- 2.2 The extension to a caravan at Elm Tree Caravan Park has been investigated; while permission is technically required for the extension no application has been forthcoming. Its effects are considered to be minimal and it is therefore recommended that no further action is taken.
- 2.3 A garage has been erected within an existing garage block at Lawson Road, Seaton Carew. It has not been possible to contact the owner of the garage. However the garage is of an acceptable design and scale and it is recommended that no further action is taken in this instance.
- 2.4 French doors have been inserted at first floor level to the rear of 18 Coatham Drive. The works undertaken do not require the benefit of planning permission and no works to convert an existing flat roof to a balcony / roof terrace area have been undertaken in the 9 months since the French doors were inserted. It is therefore recommended that no further action is taken.
- 2.5 The Bett Homes development at Inglefield included the provision of a hedgerow within the rear gardens of a number of properties. The residents of the properties concerned are opposed to the planting of the hedgerow and it is accepted that the proposed hedgerow would provide little benefit to the amenity of the local area. It is therefore recommended that no further action is taken.

**3. RECOMMENDATION**

- 3.1 The case files referred to above be closed and that no further action be taken.