

## Planning Committee

A meeting of Planning Committee was held on Wednesday, 17th November, 2010.

**Present:** Cllr Roy Rix (Chairman); Cllr Hilary Aggio, Cllr Jim Beall, Cllr Mrs Jennie Beaumont, Cllr Phillip Broughton, Cllr Robert Gibson, Cllr Paul Kirton, Cllr Miss Tina Large, Cllr Bill Noble, Cllr Ross Patterson, Cllr Mrs Maureen Rigg and Cllr Fred Salt.

**Officers:** B Jackson, C Straughan, R McGuckin, S Grundy, P Shovlin, J Roberts, A Glossop (DNS); P K Bell, J Butcher (LD).

**Also in attendance:** Applicants, agents and members of the public, Cllr Bob Cook and Cllr Andrew Sherris.

**Apologies:** Cllr Jean Kirby and Cllr Steve Walmsley.

### **P       Declarations of Interest**

**67/10**

There were no interests declared.

### **P       The Minutes of the Meetings held on 25th August 2010 and 15th 68/10   September 2010 to be signed by the Chairman as a correct record**

The Minutes of the Meetings held on 25th August 2010 and 15th September 2010 were signed by the Chairman as a correct record.

### **P       10/2144/FUL**

**69/10**

### **Finchale Avenue, Billingham, New food store with associated servicing, car parking and landscaping**

Consideration was given to a report on a planning application for the erection of a food store for the discount supermarket operator ALDI.

The application site lay on the corner of The Causeway (south) and Finchale Avenue (east) upon the former college site with John Whitehead Park to the east. Billingham Town Centre lay on the opposite side of The Causeway and was directly opposite the edge of the defined retail centre.

Planning Permission was sought for the erection of a food store for the discount supermarket operator ALDI. The store would provide an internal sales area of 990m<sup>2</sup> and a gross floor area of circa 1500m<sup>2</sup>. Ancillary warehousing, loading bay, offices and staff rooms were also included within the proposed development. The proposed opening hours of the development were between 8am and 8pm.

It was not considered that the applicants had satisfactorily addressed the sequential approach to site selection nor demonstrated that the proposed development would not impact upon the ability to attract the future investment and the new occupiers required in order to facilitate the regeneration of Billingham District Centre. Concerns also remained over the impact the proposed development may have on the general level of amenity of neighbouring residents.

Consequently the proposed development was considered to be contrary to

planning policy contained within PPS4 and also of the core strategy and Local Plan Alteration.

The consultees that had been notified and the comments that had been received were detailed within the report.

Neighbours were notified through neighbour letter, a site notice and press advert and comments received were summarised within the report. A total of 34 letters of support had been received and 56 letters of objection had been received. Comments had also been received from Stockland the land owners of Billingham Town Centre.

With regard planning policy where an adopted or approved development plan contained relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that an application for planning permissions should be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan was the Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP).

The planning policies that were considered to be relevant to the consideration of the application were detailed within the report.

Members were presented with an update report that outlined that since the original report to Members of Planning Committee further information had been received in relation to concerns raised over the impact of the development on the neighbouring residents. The letter clarified the service operations of the store and that no more than 1 HGV and 2 smaller delivery vehicles would visit the store each day. It is also stated that a noise report and sound attenuation measures could be conditioned in order to address concerns regarding noise from the refrigeration plant and that these considerations should address the concerns in the original report. Whilst this was noted and may address some aspects of concern, it was not considered it addressed all the impacts on residential amenity. The reason for refusal had therefore been revised to reflect more accurately the remaining concerns in relation to residential amenity.

Furthermore the Head of Technical Services had confirmed that he did object to the scheme on the basis of the conflict between pedestrians and HGV's and the unacceptable impacts this would have on highway safety. This had resulted in an additional reason for refusal that was detailed in the report.

The applicant, agent, representative from Stockland, Councillor Cook, objectors and supporters were in attendance at the meeting and were given the opportunity to make representation.

Members then discussed the application at length. Members agreed with the Planning Officer's report in that the applicants had not satisfactorily addressed the sequential approach to site selection nor had it been satisfactorily demonstrated that the proposed development would not impact upon the ability to attract the future investment and the new occupiers required in order to facilitate the regeneration of Billingham District Centre.

Concerns also remained over the impact the proposed development may have

on the general level of amenity that could be expected from those residential properties that surround the application site.

Consequently the proposed development was considered to be contrary to planning policy contained within PPS4 and also local planning policies CS5 of the core strategy and S2 of the Local Plan Alteration.

RESOLVED that planning application 10/2144/FUL be refused for the following reasons:-

1. In the opinion of the Local Planning Authority the applicant has failed to satisfactorily demonstrate that no other sequentially preferable sites exist within Billingham Town Centre. The proposed development is therefore considered to be contrary to policy CS5 of the Core Strategy and guidance contained with Planning Policy Statement 4.
2. In the opinion of the Local Planning Authority, the proposed development would have an unacceptable impact future investment and the long term vitality and viability within Billingham District Centre and is therefore contrary to policies CS5 of the Core Strategy, S2 of the Local Plan Alteration and guidance contained with Planning Policy Statement 4.
3. In the opinion of the Local Planning Authority the proposed development would adversely affect the amenities of the occupiers of the surrounding residential properties by virtue of noise and disturbance from delivery activity and the general activity and use of parking spaces on the western and northern boundaries beyond what could normally be expected harming the peaceful enjoyment of their homes, contrary to PPS1.
4. The proposed development as a result of the 7no. car parking spaces on the northern boundary of the site, would result in unacceptable levels of pedestrian and Heavy Goods Vehicular conflict, posing a significant risk to highway safety contrary to policy CS2 of the Core Strategy.

**P 10/2202/VARY**  
**70/10 104 Yarm Lane, Stockton-on-Tees,**  
**Application under Section 73 to vary condition no. 2 of planning approval**  
**09/1057/FUL - New food store with associated car parking and**  
**landscaping, to allow changes to approved plans**

Consideration was given to a report on planning application 10/2202/VARY.

The report outlined that planning permission was granted under application 09/1057/FUL for the erection of a food store and ancillary development. The determination of this application was subject of deferral at Planning Committee which resulted in additional details being submitted to overcome two areas of concern in respect to highway safety and design.

The application was submitted to vary the previously approved plans. The variations mainly related to the reduction of the store size, reorganisation of parking and the amendment to the design of the front elevation of the building.

There had been a total of 8 representations received from the local community, 7 letters of support, 1 letter of comment. The main comments were that the store would be beneficial to the area and would allow people to do their weekly shop locally.

The Head of Technical Services had recommended changes to the site layout as the amendments resulted in a greater proportion of parking to the rear of the store which would be less attractive to customers and amendments to the parking layout would require 3 point turns to be undertaken when using some spaces. It was suggested that landscaping is added and that landscaping is of a high quality.

The principle of the store had already been established under application 09/1057/FUL which remained to be extant. The overall site layout, whilst being able to be improved upon, was considered to be adequate, however, the design of the proposed store, specifically its front elevation, seeks to dilute the previously approved details which were approved following extensive discussions with officers and specific debate at Committee. The revised frontage design removed brick pillars, a canopy and feature detailing to an elevation whilst details roof materials as being a single membrane roof in light grey. In view of the existing character of the street scene being dominated by robust Victorian properties which positively add to the quality of the environment and the proposed food store being immediately adjacent to a listed building, it was considered that this diluted design solution would be contrary to local policies which seek to prevent new developments from having an undue impact on the setting of listed buildings and which required developments to take into account the positive character of an area.

It was considered that with an amendment to the design of the building, back to that as previously approved or similar, would allow the application to be recommended for approval, however, requests for the necessary amendments had not been made by the applicant and as such, the application was recommended for refusal.

Consultees were notified and comments that had been received were detailed within the report.

Neighbours had been notified and 7 letters of support had been received as well as 1 letter of objection and 1 letter making comments. These were summarised within the report.

With regard to planning policy where an adopted or approved development plan contained relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that an application for planning permissions should be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan was the Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP)

The planning policies that were considered to be relevant to the consideration of the application were detailed within the report.

Since the publication of the original Committee report amended plans had been

submitted for consideration.

The amended plans had been submitted following requests for several changes to the scheme and the initial officer recommendation to Committee being to refuse the application.

The main concern from Officers related to the appearance of the buildings frontage onto Yarm Lane and its impact on both the street scene and the adjacent listed building, as detailed within the reason for refusal within the main report.

The revised plans detailed a canopy projecting across a greater part of the buildings frontage and brick pillars in between glazing within the shop front, both of which were features of the initially approved scheme. The changes made were relatively minor in relation to the overall development, however, in view of the position of the proposed building within the Victorian street scene and adjacent to a listed property, the frontage of the proposed building and the use of materials were considered to be important factors to control in order to ensure a high quality of development which is reflective of its surroundings, in accordance with both national and local planning policies.

The revised details were considered to improve the appearance of the building within its setting whilst the imposition of a condition to control materials would ensure an appropriate appearance was achieved.

All remaining issues such as the principle of the development had been detailed within the main report.

In view of the considerations within both the main report and the update report, it was recommended that the application be approved subject to a Section 106 Agreement and conditions as detailed within the report and should the Section 106 Agreement not be signed by the 23rd November 2010 then the application be refused due to their being no adequate provision made in respect to the provision towards public transport as details within the Heads of Terms.

The applicant, agent and supporters were in attendance at the meeting and were given the opportunity to make representation.

Members felt that the revised details were now satisfactory and would improve the appearance of the building. Members agreed the imposition of a condition to control materials to ensure the appropriate appearance.

RESOLVED that planning application 10/2202/VARY be approved subject to a Section 106 Agreement and the following conditions:-

Should the Section 106 Agreement not be signed by the 23rd November 2010 then the application be refused due to their being no adequate provision made in respect to the provision towards public transport as details within the Heads of Terms.

Section 106 Agreement

The applicant shall pay the Local Authority the sum of £20,000 towards the

provision of a bus stop on Yarm Lane, Stockton, in the vicinity of the land.

## Conditions

### 1. Approved Plans

The development hereby approved shall be in accordance with the following approved plans unless otherwise agreed in writing with the Local Planning Authority.

Plan Reference Number	Date on Plan
0116 AL (00)01	24th August 2010
0116 AL (00)04 H	9th November 2010
0116 AL (0)10 K	9th November 2010

2. A detailed travel plan shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby approved being brought into use. Thereafter the measures contained within the Travel Plan shall be fully implemented unless otherwise agreed in writing by the Local Planning Authority.

3. Before the development hereby approved is commenced, details of a scheme for the servicing and receiving deliveries including hours of operation shall be submitted to and approved in writing with the local Planning Authority. There shall be no servicing or delivery to the site outwith the agreed scheme unless otherwise agreed in writing with the Local Planning Authority.

4. The development hereby approved shall not be brought into use until a scheme of cycle parking has been implemented on site in accordance with a scheme of such to be first submitted to and approved in writing by the Local Planning Authority. The scheme shall remain in place and be maintained and operational in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

5. Notwithstanding details hereby approved and prior to development commencing on site, a scheme of hard and soft landscaping and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of hard and soft landscaping and boundary treatments shall be implemented in full accordance with the approved details prior to the site being brought into use.

6. Notwithstanding any description of the materials in the application, no above ground construction of the building shall be commenced until precise details of the materials to be used in the construction of the external walls and roof of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

7. No development shall commence on site until full details of hard surfacing materials for the provision of car parking have been submitted to and approved in writing by the Local Planning Authority. Such materials shall either be permeable or provision shall be made to direct run off to a permeable or porous area or surface within the curtilage of the site or restrict surface run off from the site. These works shall be carried out as approved.

8. Prior to the commencement of any of the development hereby approved and unless otherwise agreed in writing with the Local Planning Authority, a written scheme detailing how much and by what method, renewable energy will be generated from the development, shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the agreed scheme has been implemented in full accordance with the approved details to the written satisfaction of the Local Planning Authority. The approved scheme shall be brought into use upon occupation and shall be maintained in an operational manner thereafter in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

9. Notwithstanding details hereby approved, prior to the development being brought into use, the car park associated with the development shall be surfaced, laid out, brought into use and maintained in accordance with a scheme of such to be submitted to and approved in writing by the Local Planning Authority.

10. Notwithstanding details shown on the plans hereby approved, prior to any works commencing on site, a scheme of ground levels and finished floor levels for all properties within the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the finished floor levels of all adjoining properties. The development shall be carried out in accordance with these approved details.

11. The opening hours of the store hereby approved shall be limited from 08.00-20.00hrs Monday to Saturday, and from 10.00-18.00hrs Sundays and Bank Holidays with only 6 hours trading on Sundays and bank holidays. The store shall not be open for business outside of these hours.

12. All construction operations including delivery of materials on site shall be restricted to be between 8.00 a.m. - 6.00 p.m. on weekdays, 9.00 a.m. - 1.00 p.m. on a Saturday with no Sunday or Bank Holiday working.

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, works must be halted on that part of the site affected by the unexpected contamination and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority prior to resumption of the works.

14. The development hereby approved shall not be commenced on site until a scheme of highway related works to construct a new access and provide a right turn lane within Yarm Lane has been submitted to and approved in writing by the Local Planning Authority and the use shall not commence until the approved works have been implemented and confirmed in writing as complete by the Local Planning Authority, in accordance with a scheme of such to be first submitted to and approved in writing by the Local Planning Authority.

**P  
71/10**

**10/2463/FUL  
Land Parcel at 448093 510847, Seamer Road, Hilton  
Proposed relocation of Seamer wind farm control building**

Consideration was given to a report on planning application 10/2463/FUL.

Planning permission was granted in August 2009 for the erection of three wind turbines together with associated crane pads, access tracks, site compound, control building, meteorological mast and access to public highway on land between the villages of Hilton and Seamer. A further two turbines were granted permission within Hambleton on appeal. The combined approvals together form the Seamer Wind Farm. The application approved within the Stockton boundary detailed a position and typical design for the control building, however, in order to adequately control the appearance of the control building, a condition was imposed which required a scheme to be agreed for its siting, scale, appearance, external finishes, boundary treatment and surfacing materials.

Officers were considering the request for a discharge of condition, however, following a challenge to the Council that the proposed location was too distant from the initially indicated site; the applicant withdrew the discharge of condition details and submitted a formal planning application which was the subject of the report.

The proposed scheme related solely to the construction of a control building and its associated hard standing. The building was a simple rectangular building with gable pitched roof split internally into several rooms. The building would be located on the northern side of the Hilton to Seamer Road within an arable field along one of the turbine access tracks.

There had been numerous objections to the scheme from local residents. The main objections were that the details being proposed differed from those previously detailed within the approved scheme, that the building would be larger, in a more prominent location and with less screening, therefore having a greater impact on the surrounding landscape.

The Planning Officers report advised that whilst the building proposed within the application was larger than building detailed on the "typical" example drawings previously submitted, it takes a basic form and through the control of external materials, would be able to fit within its landscape setting. The building was not of a scale which would dominate the landscape whilst its position would be approximately 250m from the main public vantage point (highway) and there being screening along the highway in the form of undulating ground and hedgerows which will further reduce its limited impact.

The Head of Technical Services considered that if appropriate materials were used to ensure the building was in keeping with its agricultural setting then new copse style planting to the rear of the building should be provided which would prevent the buildings roof from breaking the skyline, thereby softening its impact.

In view of all the material planning considerations the Planning Officer considered that the proposed development accorded with Local Plan and Core Strategy Policies in that it was a functional building with a need to be within this general landscape and had been limited in scale to that which was required and designed externally to fit within the landscape.



Consultees had been notified and the comments that had been received were summarised within the report.

Neighbours were notified and a total of 93 letters were received, 90 letters of objection and 3 letters of comment. The Comments that had been received were summarised within the report.

With regard planning policy where an adopted or approved development plan contained relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that an application for planning permissions should be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan was the Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP)

The planning policies that were considered to be relevant to the consideration of the application were detailed within the report.

The Planning Officer's report concluded that the proposed building was considered to be acceptable in principle as a functional building serving approved development, having a specific need for such a rural location, taking into account the approval for a control building under application 09/0736/EIS.

In view of the external materials of the building being able to be controlled by condition, it was considered that the building would be able to take the appearance of a traditional farm building which was a common feature within such a rural setting. It was considered that the scale and position of the building would prevent it from being unduly prominent or dominating the landscape while the existing hedgerows and ground levels will give screening from public vantage points.

In view of all these matters, it was considered that the proposed building would accord with the general principles of national guidance contained within Planning Policy Statement no. 7 Sustainable development in rural areas and Stockton on Tees Core Strategy Policies CS3 (8) and CS10.

Since the publication of the report amended plans had been submitted and additional representations had been received.

The amended plans had been submitted following the applicants discussions with NEDL in respect to the precise size of building and provision required. The submitted plan detailed a building and hard standing area of revised dimensions. The changes to the buildings dimensions were detailed within the update report.

The revised plan showed where parking would be achieved to the front of the building during maintenance periods.

The amended details indicated the walls and roof being constructed out of a local stone and a mock slate with brown doors and black rainwater goods. The amended plans had been received with the following text from the applicants' agent:-

"As you will appreciate there are quite a few parties involved at this stage of the project and the design of the building has to meet NEDL standards and be approved by them. The applicant wanted to ensure that the updated design did not only address your comments but also meet the standards required of it as a functional wind farm control building housing high voltage transformer equipment".

NEDL have minimum room sizes for their equipment and the HV equipment has quite large space requirements around the panels for safe arc containment and discharge of plasma in the event of any fault on the equipment."

Three additional letters of objection had been received from local residents. Objections made reflected those already detailed within the main report.

Updated comments had been received from the Head of Technical Services. Comments were summarised as follows:-

Having consulted the recently submitted drawings of the building and accompanying correspondence showing building materials consisting of local stone and slate which will be in keeping with the agricultural setting we have no objections to the style of the building.

New planting to help soften the proposal should be provided. This should be located to the rear of the building to assist with the buildings integration into the landscape. Small copse style planting should be provided which is typical in this landscape and would form a background the building to prevent the building roofline breaking the local ridgeline. The planting species should be comprised of native planting utilising those types locally common in this area.

The amendments to the scheme had reduced the eaves and ridge height of the proposed building as well as its length. Whilst there was a small increase in the buildings depth (0.3m) it was considered that these changes result in reduction in the scale and mass of the building, thereby reducing its impact on the surrounding landscape. The area of hard standing was shown as being less than half that initially proposed which would again reduce the overall impact of the development, to that which was specifically required to carry out its function. The initial scale of the building was considered to be acceptable for reasons detailed within the main report and these changes remain to be acceptable.

The amended details also indicated that the building would be constructed using local stone and a mock roof slate, both of which were considered to be appropriate materials within a rural landscape.

The Planning Officer's update report concluded that in view of the revised plans resulting in a notable reduction in the scale, mass and prominence of the development as initially proposed, the application remained to be recommended for approval in accordance with the recommendation within the main report and the associated conditions, subject to the approved plans condition being amended to reflect new plan numbers as detailed within the report.

A further update was presented to Members that outlined that comments had

been received Councillor Harrington. These comments were detailed within the report. The comments were noted and were to be detailed within the existing objections received and considered within the main report.

The applicant and objectors were in attendance at the meeting and were given the opportunity to make representation.

Members discussed the application at length. Overall Members felt that the proposed development would be an unacceptable obtrusive feature in the open countryside and thereby be detrimental to the visual amenity of the area and could not be adequately screened from within the Hambleton Borough Council area.

RESOLVED that planning application 10/2463/FUL be refused for the following reason:-

In the opinion of the local planning Authority the proposed development by virtue of its location, height and position would be an unacceptable obtrusive feature in the open countryside and thereby be detrimental to the visual amenity of the area and could not be adequately screened from within the Hambleton Borough Council area.

**P 10/1410/RET**  
**72/10 77 Richardson Road, Thornaby, Stockton-on-Tees**  
**Retrospective application for decking and boundary fencing at rear**

The Planning Officer requested that planning application 10/1410/RET be deferred for further consultation.

RESOLVED that that planning application 10/1410/RET be deferred for further consultation.

**P ALTERATION TO THE SCHEME OF DELEGATION AND IMPROVING**  
**73/10 DECISION MAKING**

Consideration was given to a report on alteration to the scheme of delegation and improving decision making.

The Government had set out an agenda for the delivery of a planning service appropriate for the 21st century through the Planning and Compulsory Purchase Act 2004, the Barker Review of Land Use Planning, and laterally, the Government's response to the Killian/Pretty Review. The planning system was in a state of flux at the time of this meeting and things would change again under the proposals being developed by the coalition government.

As part of the whole service review, an extended scheme of delegation was introduced in January 2004, and improvements made to Planning Committee such as a change in venue and the introduction of public speaking. In addition there was a reduction in the need for site visits by making greater use of IT display technology and digital photographs.

A further review of the scheme of delegation was carried out in 2007/2008 when

following referral to the Planning Committee, the recommendations were considered by Cabinet and Full Council. It was also agreed that the Executive Scrutiny Committee and an appropriate Select Committee be requested to consider the inclusion of a review of the new scheme of delegation, one year after its implementation, within the Scrutiny Work Programme.

A second review of the scheme of delegation was carried out earlier in 2010 when following referral to the Planning Committee, the recommendations were considered by Executive Scrutiny and Full Council and the agreed scheme was attached to the report. That scheme shall be incorporated into the revision of the scheme of delegation contained in part 3 of the Constitution except that any amendments proposed in the report that were approved by Executive Scrutiny Committee and Full Council would also be incorporated.

The report examined two new issues and proposed alterations to the scheme of delegation to make it more streamlined and efficient.

The performance of the Planning Committee had been under review for some time and in an attempt to improve decision making, particularly relating to the procedures associated with those decisions made contrary to officer recommendations, a new procedure had been identified which was designed to give an opportunity for further consideration, by officers and Members, and to reduce the risk both in terms of reputation and potential costs. Following reports to Cabinet and Full Council on 15th October 2008 and 26th October 2008, a protocol was agreed by Full Council that could be invoked in instances where Members were wanting to determine an application contrary to officer recommendation to defer the decision notice for three weeks whilst officers examine the reasons for refusal or acceptance against Planning Officers' advice were examined.

However the protocol was accepted subject to a review 12 months after implementing the changes. The review to be undertaken by the Head of Planning and the Planning Committee in consultation with the Cabinet Member for Regeneration and Transport. The findings and any subsequent recommendations were to be reported to Cabinet and acted upon within a timeframe agreed by Cabinet and Planning Committee.

The Planning Committee at its meeting held on 21st April 2010 considered a number of reforms that could be introduced to improve the quality of the service delivered and Executive Scrutiny reviewed the revised scheme. These consisted of:-

a) That Emails should include a real name and address and the author of an Email without a proper name and address be advised of the need to provide one.

b) Council Developments

The definition and thresholds should be raised and delegated development is classed as buildings up to and including 500m<sup>2</sup>, of floorspace, Advertisements, CCTV systems, and any structures required to be erected to enable the Council to fulfil its responsibility and function of Community Safety.

c) Council Member spouse or Partner, Member of Council Staff Spouse or Partner

The requirement for this category of planning application to be referred to Planning Committee is limited to:-

An Objection representation has been received to the planning application

Those cases where the Officer recommendation is for approval but it constitutes a departure from the Development Plan

Those cases which appear to the Director of Development and Neighbourhood Services or the Head of Planning to be extraordinary when viewed against established policy guidelines, or warrant consideration by Planning Committee;

Where the applicant is a Member of Staff of Planning Services or their spouse or partner

d) Amendments were made to the definition of "individual letters of response"

Full Council accepted the changes in July 2010.

The suggested revised scheme remains simple and makes it clear what applications cannot be determined by Officers i.e. the exceptions to the scheme of delegation.

The following issues had arisen in operating the scheme of delegation:-

The revised scheme of delegation still provided for any Member to refer a delegated application to Committee including a request for a site visit subject to providing a written justification by letter or email on the proforma and to satisfying the agreed criteria to be reported to Planning Committee, that it was an issue of fundamental principle or an issue of precedent, both of which were defined within the appendix of definition attached to the scheme of delegation. However, it was considered that the criteria should be amended to remove the term "an issue of precedent" due to the imprecise nature of the definition and the propensity for contention as to whether a proposal was being considered for the first time. It was essential that the criteria were precise and not open to misinterpretation.

Precedent was said to be one where the determination of an application might reasonably lead to the expectation that the Council would reach a similar conclusion in other circumstances, where the principle being established was occurring for the very first time in the locality, and having regard to the need to judge each application on its own individual merits.

Each application should be considered on its merits and the current criterion did not provide a precise definition and certainty as to what was envisaged and was appropriately addressed by the criteria of an issue of fundamental principle.

The second issue arises from the reference in sub paragraph f those cases which involved development on land owned, or in which an interest was held, by a Council Member (or their spouse/partner) or by any member of the Council staff (or their spouse/partner.) The wording contained a proviso "as far as reasonably practicable". It was considered that this provision did not adequately address the difficulties of identifying whether an applicant was a member of the

Council staff or their spouse or partner. It was therefore recommended that the wording be changed to "where it is known".

It was proposed therefore that delegated authority continues to be granted to Officers to process and make decisions on all applications subject to the following exceptions:-

- a.) those cases which appear to the Director of Development and Neighbourhood Services or the Head of Planning to be extraordinary when viewed against established policy guidelines, or warrant consideration by Planning Committee;
- b.) development proposed by the Council itself except those of a nature as detailed in the definitions associated with the operation of the scheme of delegation;
- c.) those cases where the Officer recommendation is for approval but it constitutes a departure from the Development Plan;
- d.) those cases where there are more than 5 letters/emails(with name and address) by way of response which are contrary to the recommendation of the case officer, with the exception of mobile phone mast applications where they remain delegated regardless of the number of objections received;
- e.) Where a Member requests in writing or by email within 21 days of publication of details of the application that Committee determine the application on the grounds of a matter of fundamental principle. An issue of fundamental principle shall be taken to involve the interpretation of a matter of policy which could undermine the purpose and objectives of the Local Plan or Local Development Framework, and where a member can demonstrate that the proposal would have such a prejudicial impact or effect on the area or Borough or its residents as to warrant determination by Planning Committee"
- f.) Those cases which involve development on land owned, or in which an interest is held, by a Council Member (or their spouse/partner) or by any member of the Council staff (or their spouse/partner), where it is known, where:-
  - i) An Objection representation has been received to the planning application
  - ii) The applicant is a member of Planning Services or their spouse or partner.
  - iii) The Officer recommendation is for approval but it constitutes a departure from the Development Plan
  - iv) They appear to the Director of Development and Neighbourhood Services or the Head of Planning to be extraordinary when viewed against established policy guidelines, or to warrant consideration by Planning Committee;

The revised scheme of delegation would ensure transparency, probity, fairness and consistency in decision making, and lead to continued improvements in performance.

Members felt that point e) of the above should be re-written in plainer english.

With regard to the protocol on decisions contrary to Officer recommendation clearly, it was perfectly acceptable for Members to appropriately challenge officer recommendations and there were often subjective assessments on issues of design. However, the crux of the matter remained that if Members wish to make a decision against officer recommendation there had to be justifiable planning grounds to do so that can be evidenced.

The Protocol on decisions contrary to officer recommendation was introduced to give an opportunity for Members to try a new approach to decision making which allowed time for further consideration of those decisions where officers determine that there were insufficient planning grounds, or evidence, to support the Planning Committee's decision.

The Protocol was invoked following consideration of a planning application and a full debate by Members and officers. The Committee would be asked to make a decision based on the evidence placed before them. In exceptional circumstances if the Committee were still minded to approve or refuse the application contrary to officer recommendation and contrary to the advice of the Head of Legal Services that the reasons provided appear unreasonable or unsustainable on appeal, the decision must be either "minded to approve to minded to refuse the application".

Members felt that "exceptional circumstances" be removed from the above paragraph.

Following the meeting, Planning and Legal officers in consultation with the Corporate Director of Development and Neighbourhood Services and/or the Director of Law and Democracy would further investigate issues raised and whether the conditions/reasons were reasonable and sustainable. If it considered that they were, the decision notice would be issued accordingly. If not, the Planning Committee Members would be notified, giving them an opportunity to substantiate their reasons for the interim decision and seek further information as they deem appropriate prior to the application being considered at the next Planning Committee meeting who would make a final determination.

Since the Protocol was agreed there had been three occasions when it had been invoked:-

Planning Committee 10th June 2009

09/0878/ADV

Trinity Green, Holy Trinity Church

Application for consent to display banners 2m long x .8m wide on 18 no. lamp posts within the grounds of Holy Trinity Church

Planning Committee Decisions 1st July 2009 approved as report

Planning Committee 23rd September 2009

09/1752/FUL

High Tree Paddock High Lane Maltby

Permanent retention of static caravan (Gypsy)

Planning Committee 4th November 2009 approved as report

Planning Committee 15th September 2010

10/1778/FUL

Land North Of Blair Avenue, Ingleby Barwick

Part retrospective application for mixed use development comprising 81 no. bedroom residential care home, 2 no. sheltered accommodation units containing 24 no. apartments and associated access, parking and landscaping.

Planning Committee 6th October 2010 refused on grounds of overdevelopment,

deficient in amenity space and does not result in good design.

It was considered that the protocol had not removed or diluted the democratic rights of Committee Members to determine a decision as they think fit but allows further time for consideration, reflection and investigation.

The Cabinet Member for Regeneration and Transportation Councillor Cook supported the continuation of the Protocol.

It was recommended that the continuation of the Protocol be approved and referred to Cabinet.

Members felt that the overall package of measures had led to significant improvements to the speed of the service and its accessibility by members of the public. There had undoubtedly been some difficulties, but Members recognised the continuing need to maintain improved performance, and agreed that the revision to the new scheme of delegation and the continuation of the Protocol would lead to a more streamlined and efficient service.

RESOLVED that:-

1. The views of Planning Committee incorporated into the consideration of the report to be considered by Executive Scrutiny Committee in relation to the scheme of delegation.
2. The views of the Planning Committee relating to the Protocol be incorporated into the consideration of the report to be considered by Cabinet.
3. The continuation of the Protocol be approved.

**P**  
**74/10**

## **PLANNING PERFORMANCE**

Consideration was given to a report on the performance of the Planning Department for the second quarter of 2010/2011.

There were a range of National Indicators (NI) against which the performance of the Council was assessed, Planning being directly responsible for 3, (NI 157, 159 and 170) and having an impact on another 7 (NI 154, 155, 185, 186, 187, 188 and 198). Of these, 2 planning indicators had been included in the Local Area Agreement (LAA), in consultation with GONE and the Local Strategic Partnership (LSP) i.e. Renaissance Board. NI157 related to the processing of planning applications against targets which the local authority sets itself for major, minor and other applications and NI 159 related to the supply of ready to develop housing sites, which was determined through the RSS housing numbers and the SHLAA.

Members were aware, it was the intention of the government to simplify the performance reporting regime, as outlined in a letter from Rt Honourable Eric Pickles MP received on 10th October 2010 and attached to the report. It was unknown what planning indicators would be abolished, but for now the intention was to report the performance of planning applications against the current



NI157 target until the matter became clearer and further guidance was forthcoming. The issue of what local indicators would be used by the Council in the future was being looked at corporately.

With regards to performance, it had been the responsibility of each local authority to set their own targets. For LAA purposes it was necessary to set annual targets (for a three year period) to show the ambition to have the service improving year-on-year from a baseline position. The expectation of GONE was for ambitious and stretching targets since we are an "excellent" Council.

The targets that had been set for the 3 year period were detailed within the report.

The reporting timeframe for the NI targets ran from 1st April - 31st March. The report presented the performance of the second quarter in that period, 1st July - 30th September 2010.

The NI indicator was reported on the annual year-end results, and the second quarter's results were available. Performance results achieved for that period were 90.91% for major applications, 90.59% for minor and 92.13% for others, achieving above performance in all 3 categories. Table 1 and the chart in the report highlighted performance over the quarter.

Performance in all categories had exceeded NI 157 targets in the second quarter of the year. 10 out of 11 major applications were determined within the 13 week, application 10/0244/OUT for outline consent for residential development at Bowesfield North, Bowesfield Lane going over target due to the open book approach taken with regards to the section 106 contributions required.

An Officer from Spatial Planning left in September to start a PhD at university and due to the current financial position of Planning Services and the Council as a whole, it was not the intention to fill the post at the present moment in time.

With regards to the income generated in the year to date, there was a shortfall of £23,683. The HPDG had been abolished which left another £50,000 budgetary pressure. This had been supplemented from the additional HPDG awarded last year and held corporately so was covered for 2010-2011. However it would remain as a budgetary pressure in the medium term financial plan in future years.

The Chairman thanked the Head of Planning for all of the hard work and dedication that she and her staff had put into continuously improving performance of the Planning Department. The Chairman outlined that he would be writing to all of the Officers in the Planning Department thanking them for their hard work and dedication.

RESOLVED that:-

1. The performance report be noted.
2. The hard work and dedication of Planning Staff and colleagues within other service areas to continuously improve performance and the reputation of the

Council against the background of the current difficult economic circumstances be acknowledged.

**P  
75/10**      **Local Development Framework Steering Group Minutes**

Consideration was given to the Local Development Framework Steering Group minutes of the meeting held on 10th August 2010.

RESOLVED that the minutes of the Local Development Framework Steering Group be noted.

**P  
76/10**      **Local Development Framework Steering Group Minutes**

Consideration was given to the Local Development Framework Steering Group minutes of the meeting held on 28th September 2010.

RESOLVED that the minutes of the Local Development Framework Steering Group be noted.

- P  
77/10**
- 1. Appeal - Miss Pamela Stewart - Springfield Stud Wynyard Road Thorpe Thewles - 08/0073/FUL - DISMISS**
  - 2. Appeal - Mr C Hill - Land off Priory Gardens Norton - 09/2630/FUL - DISMISS**
  - 3. Appeal - Mr Tim Shaw - 15 The Green Wolviston - 10/1078/FUL - DISMISS**
  - 4. Appeal - Murco Petroleum Ltd - 340 Norton Road Norton - 10/0330/VARY - DISMISS**
  - 5. Appeal - Messrs Hawkins & Beadle - 15 - 19 Yarm Lane Stockton - 09/2574/FUL - ALLOWED WITH CONDITIONS**
  - 6. Appeal - Mrs Susan Hunt - 21 Ashville Avenue Eaglescliffe - 10/1730/RET - DISMISS**
  - 7. Appeal - ELR Architects - 10 High Street Norton - 09/3092/FUL - DISMISS AND APPLICATION FOR COSTS REFUSED**
  - 8. Appeal - Miss H Harriman - 20 Beechtree Court Yarm - 09/2975/FUL - DISMISS**
  - 9. Appeal - Mr Sukhjinder Singh - 4 The Beckfields Ingleby Barwick - 10/0922/FUL - DISMISS**
  - 10. Appeal - Mr James Harley - 5 Hugo Court North Tees Industrial Estate - 09/2833/COU - DISMISS AND APPLICATION FOR COSTS REFUSED**
  - 11. Enforcement Appeal - Mrs J Pinniger - 26 Rimswell Road Stockton - DISMISS THE APPEAL AND UPHOLD THE ENFORCEMENT NOTICE**

RESOLVED that the appeals be noted.