

## Planning Committee

A meeting of Planning Committee was held on Wednesday, 8th December, 2010.

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

**Officers:** B Jackson, C Straughan, P Shovlin (DNS); P K Bell, J Butcher (LD).

**Also in attendance:** None.

**Apologies:** Cllr Phillip Broughton, Cllr Jean Kirby, Cllr Ross Patterson and Cllr Steve Walmsley.

### **P       Declarations of Interest**

**78/10**

There were no interests declared.

### **P       Minutes**

**79/10**

The minutes of the meeting held on 6th October 2010 were signed by the Chairman as a correct record.

### **P       PLANNING GUIDANCE ON THE VALIDATION OF PLANNING APPLICATIONS**

**80/10**

Consideration was given to a report on the validation of planning applications following consultation with interested parties as recommended by Central Government.

In 2007 the Government amended the Town and Country (General Development Procedure) Order 1995 (the GDPO) to introduce a mandatory standard application form and associated information requirements for validation of applications, from 6th April 2008. Different types of application and scale of applications required different levels of information and supporting documentation to be submitted. Under these arrangements, this had comprised a national core list that applied in all cases and additional items specified locally from a list provided by the Local Planning Authority as agreed by the Planning Committee in February 2008

However in March 2010 the Government issued new guidance "Guidance on Information and Validation" which required Local Planning Authorities to review their published list of local information requirements. The purpose of the document was to outline the compulsory requirements of the Local Planning Authority and possible additional local information requirements for various planning applications in order for the Local Planning Authority to consider them as "valid" planning applications.

This was aimed at enabling the Local Planning Authority to have sufficient information to confidently determine planning applications from the outset, in order to provide a fast and efficient planning service.

The results of the consultation and analysis of representations needed to be considered by the Planning Committee for formal resolution and adoption of the local list.

Members were presented with an update report that outlined that two additional replies had been received from consultees. Responses had been received from Sports England and the Teesmouth Bird Club.

The responses had been considered and they did not raise any new issues which required any further changes to the amended list following the consultation process.

The document would assist developers and Stockton Planning Services in the validation of planning applications. The document was intended to offer assistance and guidance to developers submitting planning applications detailing the expected requirements for a variety of types of planning application in order to achieve a quicker, more transparent and efficient planning service.

The document was intended to outline the validation procedures of planning applications received by Stockton Borough Council, providing guidance on the information required to be submitted as part of a planning application.

This was aimed at lessening the ambiguity of what is classed as a valid planning application and enabling the Local Planning Authority to have sufficient information to confidently determine planning applications while offering a clear and detailed requirement from the outset in order to provide a fast and efficient service.

The national list sets out statutory requirements (which include the completed application form; the correct fee (where one is necessary); ownership certificates; agricultural holdings certificate; design and access statement (where one is necessary); the location plan; site plan; other plans and drawings or information necessary to describe the subject of the application; and environmental statement (where one is necessary) for applications).

The local list comprised additional information which local planning authorities can require to validate an application. The Government had required Local Planning Authorities to identify the drivers for each item on their existing local list of information requirements, if these were not already stated. These drivers should be statutory requirements, national, regional or local plan policies, or published guidance that explains how adopted policy should be implemented.

All Local Planning Authorities had been advised to review national, regional and local planning policy to ensure that they haven't missed any recent policies.

Having identified the information requirements, local planning authorities were advised to decide whether they needed to prepare a new list or revise their existing local list, having regard to the principles and criteria set out in the guidance. Given the requirements set out by the Government it was considered necessary to prepare a revised list.

Local Planning Authorities had been strongly advised to adopt a proportionate approach. Some information may only be relevant in particular geographical contexts, or for specific types of planning application. Wherever possible, an LPA was required to set out the circumstances where a local list item would be required. Wherever possible, it should also set out the circumstances where a

local list item would not be required. This was intended to provide greater certainty for applicants.

Where possible, the list should identify size thresholds below which the information was not required. For example, for householder and other minor development applications, it may be disproportionate to routinely request the submission of specialist technical reports.

The Government was concerned that in the past, some LPAs had taken a risk-averse approach and sought to impose a blanket requirement for the detailed technical reports referred to in some Planning Policy Statements. In some cases this was considered to be a disproportionate response. In revising their local lists, LPAs had been advised to focus on the principle of proportionality and not expect applicants to provide the highest levels of technical detail suggested in the PPS's' except for major or particularly sensitive development, where this may be appropriate.

Where possible, a graduated approach should be taken to the information required (e.g. dependent on the scale or sensitivity of the proposal). Local lists should reflect the fact that different scales of development may have different impacts, and – irrespective of the development size – that these impacts may vary depending on the characteristics of the site and surrounding area.

Local planning authorities were required to present their local list of information requirements clearly and concisely. The Government considered that the revised local list may be most clearly presented in the form of a matrix of requirements.

As changes were considered necessary, the proposals were publicised in the local community, including applicants and agents, for consultation. The consultation period was required to be no less than eight weeks and took place between 1st October 2010 and 30th November 2010.

Attached to the report was the list of local requirements which would be amended to include the proposed changes.

Also attached to the report was the revised local list and was presented in the form of a matrix of requirements.

The DCLG recommended process for determining information requirements for planning applications which had been followed was:-

1. Review existing local list
2. Summary report of proposed changes
3. Consult on proposed changes
4. Finalise and publish revised list
5. The whole process of reviewing, revising and publishing the local list should be completed by the end of December 2010 at the latest.

The Minimum period for consultation with relevant stakeholders should be 8 weeks. Consultation Period 1st October 2010- 30th November 2010.

Relevant stakeholders were:-

Statutory consultees (including the Environment Agency, Natural England, English Heritage, the Greater London Authority, Network Rail, the local highway authority, Regional Development Agency, Strategic Health Authority, County Council and statutory undertakers)  
Parish/Town Councils  
Relevant voluntary and community groups e.g. Residents Groups/amenity societies  
Agents/applicants forums or representative group of agents  
Groups or organisations referred to the adopted statement of community involvement.

Formal review of comments and report back for formal resolution and adoption of the local lists by the relevant committee 8th December 2010.

The revised local list when approved by the LPA would be published on the Council website and there would be a clear signpost on the planning homepage to the section of the website where the local list can be found.

As this local planning authority had consulted and would be adopting local lists in accordance with the procedures outlined above, they could be used as the local requirements when validating applications under the amended GDPO.

When publishing the revised local list and any associated guidance notes, the date of publication would be clearly visible. This was to confirm that the list had been revised to reflect the new policy.

The Planning Portal would be informed of any changes that were necessary to the Planning Application Requirements (PAR) as a consequence of changes to the local list (e.g. downgrading the status of certain supporting documents from "mandatory" to "optional"). This was necessary to ensure that the information requirements for online applicants were updated to reflect the revised local list.

Authorities were advised to review their lists every three years and if they were proposing to make amendments (other than minor amendments) should re-consult and adopt new lists. Minor amendments to take account of statutory changes or Government guidance may be made as required without undertaking a full review or consultation.

The responses to the consultation was detailed within the report.

The recommendations to be included/ not included in the revised local list were detailed within the report.

With regard Prior Approval under Part 24 in terms of validation requirements for a GPDO application, then local validation requirements should not and cannot extend beyond what was the statutory requirement set down in existing legislation.

Although code operators might often provide a range of operational details and plans to support a prior approval application, it was clear that a valid application for prior approval was made when the statutory requirements had been met. These were less stringent than a LPA would expect for many planning

applications and did not require, for example, elevational drawings. Additional information may be requested, such as ICNIRP, but those requirements should not invalidate the application. The GPDO was clear at A.3 (7) (b) that the decision should be made, in writing, within a period of 56 days beginning on the date on which the LPA received the application. Hence, Day 1 of the 56 days started when the LPA had received the minimum statutory requirements for a prior approval application explained earlier in this representation. That could be the same day they receive a valid application and the start date should not be postponed pending receipt of other non statutory supporting documentation.

This was a fundamental point as the prior approval process was not well understood by many LPA's and any guidance must be accurate and clear. The Council local validation requirements should make it clear what was necessary as a statutory requirement to validate the application and what might be desirable to help the consideration of that application such as ICNIRP or alternative site information if the proposal was for a new mast.

There were many case law examples where LPA's had misapplied these statutory requirements only for the application to become a default consent where the LPA had not made a decision within the 56 days. In England the Local Government Ombudsman produced a Special Report in 2007 on telecommunication prior approval applications and this gave examples where the minimum statutory requirements had been met and LPA's had mistakenly not determined applications within the correct timescales.

It was therefore urged that these statutory requirements for a prior approval application were made explicitly clear in the list of Local Validation Requirements, possibly in a separate section for Part 24 prior approval applications.

PPG 8 stated at paragraph 30. "However, it is the Government's firm view that the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them."

The seventh of the ten commitments by the Mobile Operators Association was to provide, as part of planning applications for radio base stations, a certification of compliance with ICNIRP public exposure guidelines. Even if a certificate was not provided with a planning application, a mast could not be legally erected

However given the judgement in *T-Mobile UK Ltd & Ors v. First Secretary of State & Anor* [2004] EWCA Civ 1763 concerning the addition of new equipment to a mobile telephone mast close to two primaries and one junior school. The Court of Appeal said that it did not rule out that circumstances could arise that would cause public concern capable of amounting to a material consideration. However, the court held that the certainty of ICNIRP certification gave appropriate assurances on health. Lord Justice Laws "The Inspector appears to have considered that his conclusion that the appeal proposal provided insufficient reassurance on health was consistent with Government

policy, notwithstanding the proposal's ample compliance with ICNIRP and an appropriate certificate having been given to that effect. That, in my judgment, was the error made by the Inspector which is central to this case."

With regard to information relating to Mast and site sharing Paragraph 66 of PPG 8 states "Local planning authorities may reasonably expect applicants for new masts to show evidence that they have explored the possibility of erecting antennas on an existing building, mast or other structure. Conditions in code operators' licences require applicants to explore the possibility of sharing an existing radio site. This evidence should accompany any application made to the local planning authority whether for prior approval or for planning permission." Therefore it was considered reasonable to request this information

The recommendation was:-

Proposed changes to "All telecommunications applications for planning permission for new Masts for mobile telephony"

And a second category

For applications for prior approval for masts for mobile telephony - Evidence of assessment of alternative sites and/or mast sharing.

RESOLVED that:-

1. The amendments recommended for inclusion in the local requirements for the validation of planning applications as detailed in the report be agreed.
2. The agreed amended list be used as the local requirements when validating applications.

**P  
81/10 National Policy on Nuclear Power, The Government Response to  
consultation and a second Nuclear power station site at Hartlepool**

Consideration was given to a report on National Policy on Nuclear Power.

The 2008 Planning Act introduced a new planning system for applications to build nationally significant infrastructure facilities in England and Wales. These were the large scale facilities that supported the economy and vital public services.

The changes were a response to the delays and costs associated with taking major infrastructure projects through the existing planning system. These included long public inquiries and a lack of clarity around national policy and the need for developers to seek a range of different consents for the same project.

The new system covered applications for major energy generation, railways, ports, major roads, airports and water and waste infrastructure. Smaller infrastructure projects which fell below the thresholds set out in the 2008 Act, and other developments such as housing and retail, would continue to be dealt with under the existing planning system.

Only the Nuclear Power and Airports NPS included more specific information on where developments might be built, although locational criteria in the other NPS may guide promoters to appropriate types of areas. Where there was a conflict between the Development Plan for an area and a National Policy Statement, the

National Policy Statement would be followed. National Policy Statements would also become "material considerations" for local planning authorities when considering planning applications for development under the main town and country planning system.

The revised Nuclear Power consultation included details of the Government's response to the choice of a new Nuclear power site near the existing Hartlepool Power Station. As a neighbouring planning authority, Stockton on Tees was entailed to comment both on the consultation and also when an application was made under the process for nationally significant infrastructure facilities. The report therefore considered the Government's response to the consultation, the choice of site and outlined the process and role the Council would have in the determination of an application for a new Nuclear power station at Hartlepool.

In 2009 the Government began consulting on an Overarching National Policy Statement for Energy. This included individual statements for:-

Renewable Energy Generation – including wind farms, energy from waste and biomass plants Fossil

Fuel Electricity Generating Infrastructure – e.g. gas, oil and coal fired power stations)

Gas Supply Infrastructure and Gas and Oil Pipelines

Electricity Networks Infrastructure – e.g. power lines and substations

Nuclear Power Generation

Only the Nuclear Power and Airports NPS included more specific information on where developments might be built, although locational criteria in the other NPS may guide promoters to appropriate types of areas. Where there was a conflict between the Development Plan for an area and a National Policy Statement, the National Policy Statement would be followed. National Policy Statements would also become "material considerations" for local planning authorities when considering planning applications for development under the main town and country planning system.

With a change of Government in May 2010, it was decided to abolish the Infrastructure Planning Commission and transfer their powers to the Planning Inspectorate. However, at this point in time the process remained the same but Ministers would take decisions on applications within the same statutory fast-track timeframe as the current regime.

Until new legislation was in place the Infrastructure Planning Commission would continue in its present role until it is abolished. During this interim period, should an application reach decision-stage and where the relevant National Policy Statement had been designated, the Infrastructure Planning Commission would decide the application. If an application reached decision stage and the relevant National Policy Statement had not been designated, the Infrastructure Planning Commission would make a recommendation to the Secretary of State, who would take the decision

With regard the Government Consultation on the draft energy National Policy Statements for Energy Infrastructure the principal purpose of the consultation was to identify whether the draft energy National Policy Statements were fit for purpose and whether they provided a suitable framework for the Infrastructure Planning Commission to make decisions on applications for development consent for nationally significant energy infrastructure.

In the case of the draft Nuclear NPS, the consultation also sought views on the Government's assessment of the potential suitability of sites for the deployment of new nuclear power stations, and the Government's assessment of arrangements to manage and dispose of waste from new nuclear power stations.

Public consultations on draft NPSs were intended to provide an opportunity for debate on the national need for the various types of infrastructure rather than repeating this when each large infrastructure application was considered by IPC/PINS. Once a finalised NPS was in place, the IPC/PINS would focus on the issues related to that particular planning application rather than the wider issues of need.

The Government's detailed response to the comments it received relating to the proposed site at Hartlepool were attached to the report.

The IPC/PINS would operate a one-stop development consent process for nationally significant infrastructure projects.

The IPC/PINS would decide whether to grant consent on the basis of the policies set out in the NPSs, taking into account domestic and European law, reports from affected local authorities, and evidence put forward by local communities and other interested parties during examination.

In making its decision the IPC/PINS would weigh up the benefits and adverse impacts of the application.

The IPC/PINS would have to give detailed reasons for its decisions and could be challenged in the courts if people think it had acted unreasonably.

The new process would provide clearer and better opportunities for the public and local communities to get involved from an early stage in decisions that would affect them

There would now be three opportunities for individuals and groups to have their say:-

- During the public consultations on the draft NPSs when applications are being prepared for submission to the IPC/PINS – at this stage developers are required to consult with local communities about what they plan to do, and
- During the IPC/PINS' examination of applications – when individuals and groups can submit evidence in writing as well as in person
- At open-floor hearings held by the IPC/PINS



There was no legal requirement to consult neighbouring authorities about the Statement of Community Consultation.

Guidance on the new regime stresses that all matters should be resolved so far as possible before the application was submitted to the IPC/PINS. The function of the Commissioner(s) would be to decide or recommend to the relevant Secretary of State whether or not a development consent order should be granted (Sections 104 or 105 of the Planning Act 2008), and on what terms, with only limited scope to require or allow changes to the proposal after submission. It would be for the local authority to seek any changes to the draft proposal which it considers necessary, including dealing with any matters requiring negotiation, before the application is finalised and submitted.

Where a proposal was an EIA development a developer may request the IPC/PINS to prepare a scoping opinion. Before doing so the legislation required that the IPC/PINS should consult local authorities as well as other prescribed bodies. This would include the authority or authorities (in the case of linear projects or projects which straddle boundaries) within whose area(s) the proposal falls, commonly referred to as the "host" authority or authorities; together with any local authorities that share a boundary with a host authority. In two-tier areas this test would include the County Council and all adjoining authorities, including District Councils which adjoin the County Council's area. Regardless of whether a proposal was an EIA development (and whether a scoping opinion was sought), the promoter was required to consult both the host authorities and adjoining authorities and other prescribed bodies which they consider would be materially affected by the project under Section 42 of the 2008 Act. Advice note three: Scoping opinion consultation contains advice on the IPC/PINS's role in the process of scoping environmental statements and was intended to assist applicants and statutory consultees.

Each host authority would be consulted by the promoter in the development of the draft Statement of Community Consultation (SOCC), and would have the right to comment to the IPC/PINS on the suitability of the SOCC. Each host authority and adjoining authority will, after an application had been submitted, be able to make representations on the adequacy of the consultation actually carried out by the applicant and would, after an application had been accepted by the IPC/PINS, be invited to submit a Local Impact Report giving details of the likely impact of the proposed development on the authority's area (or part of its area).

It was recommended that authorities affected by a proposal to confer at an early stage to establish whether they can make common cause and work jointly. Joint working would offer several benefits because it will:–

- enable the authorities to present a united face to the promoter in addressing the merits of the proposal, any changes which may come forward in response to evidence on prospective impacts, and any matters which require negotiation
- simplify and speed up communication, avoid the promoter having to deal separately with the several authorities, and reduce the risk of misunderstanding and mixed messages

- offer the opportunity to integrate the authorities' approaches to public information and consultation, including the production of common material which will provide consistent information to local communities
- enable the sharing of costs if it becomes apparent that the authorities need to carry out or commission studies to test aspects of the case presented by the promoter (e.g. within an environmental statement)
- maximise efficiency and minimise staff resource implications for all the affected Authorities.

It was especially important that neighbouring authorities were consulted to ensure that all of the local communities which may be affected by a proposed development were able to participate in the consultation activity. It may be that more people will be affected in a neighbouring area than in the area which could host the proposed development.

The first specific role for the local authority comes in section 42 of the Act, which provided that the applicant must consult each defined local authority about the proposed application. Section 43 specifies that the local authorities which must be consulted were each local authority in whose area the NSIP would be situated; and also any of the neighbouring local authorities. Any response which a local authority makes following a consultation under section 42 of the Act may be a representation in terms of the local authority's own vision and place-shaping.

Local authorities may decide to comment on the suitability of the proposed application by reference to the relevant local development framework or development plan. Alternatively, such representations may reflect other aspects of the proposed application which were of particular importance to the local authority. Under the provisions of the Act, they would therefore be given an opportunity to present their views directly to the promoter about any proposed application. The Act provided that the promoter must not set a deadline of less than 28 days for any responses. Local authorities were encouraged to take full advantage of this opportunity to present their views directly to the promoter on any aspects of the proposed application which were of importance or concern to them, such as measures to mitigate any adverse impacts, so that the promoter can consider their comments before finalising their proposals.

More widely, local authorities would be invited by the IPC/PINS to submit a "local impact report" (LIR), which sets out what the local authority believes would be the likely impacts of the proposed development on its area (or any part of its area).

This report may differ from other representations made by the local authority, in that LIRs were intended to allow local authorities to represent the broader views of their residents. Consequently, a local authority which had been invited to submit a LIR may decide to cover a broad range of local interests and impacts.

The LIR should be used by local authorities as the means by which they submit their views to the IPC/PINS on the likely impacts of the proposed development on their area, based on their existing body of local knowledge and evidence on local issues. Hence there was no need for the local impact report to replicate the EIA. This report was distinct from any representation a local authority may choose to make in respect of the merits of an application and any subsequent approvals that should be delegated to the local authority for determination (e.g. on detailed designs).

With regard to the Government's response to the consultation on the proposed new Hartlepool Nuclear Power Station site, the Government's full response in relation to Questions 20, 21a, 21d was attached to the report and was comprehensive. The key issues and responses were:-

The Government acknowledges the safety, security, health and non-proliferation concerns raised by respondents. However, taking all the evidence into account, the Government believes that the risks associated with nuclear power are small and that the existing regulatory regime is such that those risks can be effectively managed. Further, the Government remains satisfied that the drafting of the revised draft Nuclear NPS appropriately covers these impacts

The SSA was a process to identify and assess sites which were strategically suitable for the deployment of new nuclear power stations by the end of 2025. In addition to calling for nominations, a study was commissioned to identify any alternative sites across England and Wales.

The SSA had assessed whether a site was potentially suitable for a new nuclear power station rather than assessing a detailed application for development consent. It was possible, in theory, that different developers could bring forward different detailed proposals which may not affect the site's overall strategic suitability, which was the remit of the SSA. The SSA criteria represent those issues which Government was capable of assessing at a national level and at an early stage in the planning process.

Detailed plans would continue to emerge for individual planning applications. A conclusion that a site was potentially suitable did not mean that an individual application for development consent at that site would be granted by the IPC/PINS. The IPC/PINS would have to carefully consider what was proposed in the application, and at a level of site specific detail which was beyond what was achievable in a national level assessment.

The SSA did not require nominators to specify how many reactors may be developed at a site. For the majority of the criteria, the assessment considered the area within the nominated boundary rather than the number of reactors that would be on it, which was less relevant at the level that the assessment was conducted. For instance, the flood risk assessment of the area within the boundary would apply regardless of the number of reactors that were on a site. For those criteria where it was more relevant at this stage, size of site (D9) and cooling (D10), a baseline of one reactor was used. The AoS had also used a base case of one reactor, apart from at Hinkley Point and Sizewell where the AoS took note of nominator statements that they plan to develop twin reactors at the site

The draft Nuclear NPS identified potential cumulative effects of more than one nuclear development at a strategic level. It identified both potential cumulative impacts in particular regions, for instance on biodiversity or visual impact on landscape, and opportunities, for instance on employment and supporting industries.

The assessment found that there was scope for mitigation of some impacts, but in some cases total mitigation is unlikely. However, not all cumulative impacts can be adequately assessed at this stage. For instance when assessing the cumulative impact on transport, factors such as the potential timing of the development and the number of employees will make a significant difference to the cumulative impact of more than one power station. This sort of information was not currently available. Ruling sites out now purely on the basis of cumulative effects risks prematurely precluding a site from development before an adequately detailed proposal could come forward with potential mitigating actions.

There could be no certainty that development consent on all sites listed in the revised draft Nuclear NPS would be sought or granted. This could result in removing sites now on the basis of cumulative effects which may not in practice materialise. Given this, and as it was for the private sector to build and operate new nuclear power stations, if sites were considered potentially suitable then the Government did not think it appropriate to stipulate which application should come forward first.

The assessment of environmental impacts was drawn from the AoS and HRA for each site. The HRAs for the sites which were in the NPS concluded that it could not rule out adverse effects on the integrity of European-designated ecological sites. However, the assessment proposed a suite of avoidance and mitigation measures which could be considered as part of a project level HRA. It was assessed that the effective implementation of these measures may help to avoid or mitigate adverse effects.

Given the scope for avoidance and mitigation, and the need for sites, the Government did not think that sites should be ruled out from the revised draft Nuclear NPS where adverse effects cannot be ruled out at this stage (Dungeness is the only nominated site which overlaps with a European protected site to such an extent that the avoidance of adverse effects is not considered possible and mitigation of the effects of direct land take is assessed as unlikely to be successful).

The assessment had considered sites, rather than specific applications, and had been undertaken at a strategic level where specific project level information was not yet available, including in some cases information about the choice of reactor, the location of the finalised boundaries of the development site, the location and extent of ancillary infrastructure (such as marine off loading facilities, transport infrastructure, housing/community facilities) and the location of flood defences. These factors would all affect the scale of impacts and affect the avoidance and mitigation measures which might be feasible. At this strategic level, detailed suggestions for mitigation had been considered in the absence of project specific detail. Mitigation measures had not therefore been stipulated for each site. This avoids the risk mitigation measures which would have been appropriate for a particular development were missed, or stipulated where they

were not necessary.

A threshold of potential mitigation had not been set as this may mean ruling sites out against effects which do not arise. Methods to avoid or reduce impacts would be explored in more detail at the project level when the developer had detailed information to design a bespoke package of mitigation measures tailored to suit local conditions.

With regard the Hartlepool Strategic Siting Assessment Specific Sites, given that the site meets the SSA criteria, and having considered evidence from, inter alia, the public consultation, the spring 2009 opportunity for public comments, regulators, the revised AoS and HRA, the Government had concluded that the site is potentially suitable and it is included in the revised draft Nuclear NPS.

The assessment considered that there were a number of areas which would require further consideration by the applicant, the IPC and/or the regulators should an application for development consent come forward, including the effects of any proposals on biodiversity including on the Tees Estuary, and consideration of existing land use.

In determining the site population factors for advising the Government with regard to the demographics criterion in the SSA the HSE's generic demographic analysis was carried out to a radius of 30 km from the proposed site and this would have therefore taken account of the influence of population centres out to that distance. The HSE's assessment was based on data from the National Population Database 2, updated in 2008, and therefore takes into account changes in populations since development of the existing power station.

With regard flooding, storm surge and tsunami, should an application for development consent come forward, the applicant would need to demonstrate that they had assessed the implications of the proposed project on strategies for managing the coast set out in the latest Shoreline Management Plan.

As referenced in the draft Nuclear NPS, the site passed this criterion in the SSA, however given this proximity to neighbouring "upper tier" COMAH establishments, the applicant would need to demonstrate to the HSE that the facility could be protected against risk from adjacent hazardous facilities throughout its lifetime. The HSE had identified a further neighbouring COMAH site, Fine Organics Ltd, which had been referenced in the revised draft NPS and accompanying maps.

The HSE's assessment of the site concluded that at a strategic level there were no concerns sufficient to rule out the future use of the site for nuclear development. During any site licensing phase, external hazards would be examined in considerably more detail, and appropriate arrangements and safety justifications developed to take account of any potential threats.

With regard internationally designated sites of ecological importance and D7: Nationally designated sites of ecological importance, the HRA report for Hartlepool identified that habitat loss as a result of construction of the power station and associated infrastructure (such as the cooling water intake and outfall structures and the possible construction of marine off-loading facilities) within Teesmouth and Cleveland Coast SPA/Ramsar could result in the direct

loss, albeit temporarily, of designated and supporting habitats.

The HRA report had set out a number of suggested avoidance and mitigation measures for the IPC to consider such as avoiding or minimising losses of habitat through site layout and design (for example using tunnelling techniques for cooling water infrastructure to minimise impacts on habitats at the surface). The HRA report also sets out that connectivity of important wildlife corridors around the nominated site should be maintained and opportunities for habitat creation, restoration and enhancement should be sought where possible.

Regarding Hartlepool Power Station local wildlife site, the assessment had considered impacts on internationally and nationally designated sites of ecological importance, such as SSSIs. Nature and wildlife reserves in local areas may not have statutory status but the Government recognises they can be sites of local importance. The Government considers that impacts upon local sites are more appropriately addressed by the IPC at the development consent stage when EIAs were undertaken and project level information was available as potential impacts to them will be locally rather than strategically significant.

The HPA had advised that in COMARE's 10th report no evidence was found of excesses of childhood leukaemia or other childhood cancers around British nuclear power plants. Furthermore, in its 11th report (2006), COMARE examined the childhood cancer throughout Great Britain and concluded that many types of childhood cancers do not occur in a random fashion; in other words clustering is a general feature of childhood leukaemia or other childhood cancers.

Local primary care trusts and public health observatories currently had responsibilities for maintaining surveillance of cancer rates and investigating reports of clusters, including those of adult cancers. COMARE had advised that they were not aware of any reports from either the local primary care trusts or public health observatories that have shown evidence of cancer clusters, including thyroid cancer, in populations around Hartlepool.

The conclusion could therefore be drawn that in principle the Government considered that the site at Hartlepool satisfies the main criteria for a Nuclear Power Station site. There appeared to be only two outstanding elements requiring further detailed information which would be submitted at the application stage relating to ecology (locally significant impacts) and proximity to hazardous industrial facilities.

It would appear therefore that no adverse issues/impacts had been identified by the Government which would affect Stockton on Tees. However as indicated above the Council would be consulted on an application for a Nuclear Power Station at Hartlepool. The details of the application would be carefully scrutinised and reported to the Planning Committee to consider the Council's formal response to the consultation.

RESOLVED that the report be noted.

Consideration was given to a report that provided an update on the current situation and impact of the High Hedges Legislation.

On the 1st June 2005 Part 8, High Hedges (Sections 65–84) of The Anti-Social Behaviour Act 2003 came into force, which gave powers to local authorities to deal with complaints about high hedges which were having an adverse effect on a neighbour's enjoyment of his property.

This legislation created a procedure for dealing with complaints about high hedges, to be administered by local authorities in England and Wales. Complaining to the local authority would be a last resort and people should have already tried to solve their hedge problems by negotiation with their neighbours before approaching the authority, otherwise their complaint could be rejected. It was agreed that the Head of Planning had the delegated powers to deal with these types of complaints and to help local residents guidance notes and leaflets were drafted which all were made available at planning reception and on the Council's website.

It should be noted that the offending hedge did not have to be growing in someone else's garden. It could, for instance, be on parkland that backs onto a garden or several gardens down the road. It was the effect of the hedge on a domestic property (empty or occupied) that was important, not where it was located. Also the legislation did not deal with single trees but only with hedgerows promonally consisting of two or more evergreen or semi evergreen trees or shrubs.

Another aspect of this legislation was that the complainant and the owner / occupier of the land where the hedge was situated could appeal against the decision of the local authority. This obviously meant that a high hedge complaint case takes more Officer hours than most of the normal planning complaint cases. However any high hedge appeal could only be conducted in writing (written reps). It was noted that every high hedge complaint that the Planning Enforcement Section had dealt with, an appeal had been lodged with the Planning Inspectorate. But to date every appeal had been dismissed by the Inspectorate.

With regard the cost and impact to the local authority the main costs fell on the local authority to administer the high hedge complaint system and the appeals. These costs were being met, in part at least, through fees paid by complainants. The legislation gave the local authority power to charge a fee if they wanted to. Each authority was able to decide whether to require a fee and how much that should be and in what circumstances it might be waived. Therefore Members of the Planning Committee on 1st June 2005 agreed to a fee of £350 but that pensioners, people receiving income support and people on disability benefit would be exempt from paying this fee.

Having had a number of years to monitor high hedge complaints and contacting other Authorities in the area the following information was noted:-

The high hedges fees and the number of complaints received from 1st June 2005 to date from the 5 Tees Valley authorities was as follows:-

Stockton on Tees Borough Council £350 (Exemptions for old age pensioners, people receiving income support, people registered as disabled.) 8  
Middlesbrough Borough Council £350 (no exemptions) 4  
Darlington Borough Council £365 (no exemptions) 0  
Redcar and Cleveland Borough Council £350 (no exemptions) 2  
Hartlepool Borough Council £100 (no exemptions) 8

It was also noted that out of the 8 complaints that have been dealt by the Planning Enforcement Section, 6 complaints were none fee earning (exempt) and only 2 high hedge complaints were fee earning.

The Head of Planning after reviewing the legislation and taking into account central government information plus the impact on the service proposed that a flat fee of £350 should still be charged and not increased for a high hedges complaint but with no reduction in this charge under any circumstances to groups such as pensioners and people receiving income support due to financial constraints that the Planning Division were having to operate under in the current economic climate.

Members agreed with the proposal by the Head of Planning with the condition that monitoring of enquiry's to identify if applicants are being discouraged by fee take place.

RESOLVED that:-

1. The content of the report be noted by Members.
2. The fee for High Hedges applications remains at £350 and this is to be reviewed after a period of 1 year.
3. With immediate effect there are now no exemptions from the payment of the high hedges fee.

**P  
83/10**      **Annual Monitoring Report 09/10**

Consideration was given to a report that informed Members of the completion of the Local Development Framework Annual Monitoring Report (AMR) for 2009/2010, prior to it being submitted to the Secretary of State before the end of December 2010. The AMR contained information about how the Council had performed against its Local Development Scheme and, following the adoption of the Core Strategy in March 2010, it also assessed progress against the Local Development Framework's objectives using locally specific targets and indicators. Core Indicators set by the Department for Communities and Local Government relating to Business Development, Housing, Environmental Quality, Minerals and Waste were also included.

Review and monitoring were key aspects of the Government's approach to the planning system and should be undertaken on a continuous, pro-active basis. Identifying outputs and trends enabled a comprehensive evidence base to be established. This could be used to assess the impact and effectiveness of existing local development document policies, as well as informing new policy development.



A key aspect of the review and monitoring process was the Annual Monitoring Report (AMR). This AMR was based on the period 1st April 2009 to 31st March 2010, known as the "reporting year". It must be submitted to the Secretary of State no later than the end of December 2010.

The AMR set out the Council's progress in meeting the timetable in the Local Development Scheme (LDS). Of particular note during 2009/2010 was the adoption of the Core Strategy Development Plan Document. The Core Strategy was submitted to the Planning Inspectorate for examination in public in late May 2009 and following hearing sessions held between 21st September and 2nd October 2009, was found to be a sound plan for the Borough in February 2010. It was adopted as Council Policy in March 2010. The AMR also reported other LDF progress, including the adoption of the Open Space and Landscaping DPD and the progress of the Minerals and Waste DPDs towards submission to the Secretary of State.

The AMR also assessed progress using a number of monitoring indicators. Twenty of these were set out the Regional Spatial Strategy and Local Development Framework: Core Output Indicators - Update 2/2008 issued by the Department for Communities and Local Government. The Core Strategy also included a number of local indicators, many of which were first monitored in the 2008/2009 AMR and had been incorporated formally in the 2009/2010 document. Further local indicators would be introduced to monitor the objectives and policies of future DPDs.

Some key findings of the 2009/2010 AMR were:-

- 713 dwellings were completed in the Borough in 2009/2010. This is over one hundred dwellings greater than the 2008/2009 total.
- Of the 713 dwellings completed, 189 (approximately 27%) were classified as 'affordable' whilst 499 (approximately 70%) were built on previously developed land.
- Over 800 hectares of employment land (including allocations and extant planning permissions) was available within the Borough at the end of March 2010.
- 87% of Stockton Town Centre's Primary Shopping Frontage is currently classified as being in retail use, although some of these units are currently vacant.

The Annual Monitoring Report 2009/2010 was available in the Members' Library and on the Electronic Members' Library (accessible through the Council Intranet).

Following consideration by Planning Committee the report would be referred to Cabinet on 20th December 2010 for Members agreement. The AMR would then be submitted to the Secretary of State before 31st December 2010.

RESOLVED that the Local Development Framework Annual Monitoring Report 2009/10 be noted and endorsed.

Consideration was given to a that sets out that a draft of the Preferred Options version of the Regeneration Development Plan Document (DPD) had been prepared, and that it sets out the Council's preferred policies and sites for development in the Borough up to 2026, in accordance with the strategic policies set out in the Adopted Core Strategy. Further to this, it explained that the document and associated documents had been drafted for consideration through the Council's democratic processes in readiness for consultation and publicity early next year.

However, the economic situation, malaise in the development industry and uncertainties in higher level planning and central government funding policy may have implications for the direction and policy with specific reference to housing in Core Strategy, whose impact may in turn filter through to the Regeneration DPD.

It explained that it was considered necessary therefore to scope the need to review the housing element of the adopted Stockton on Tees Core Strategy (March 2010).

It sought agreement of the principle of undertaking a scoping exercise to assess the need to review the housing element of Stockton's Core Strategy, on the basis that Cabinet agreement would be sought for the structure, timetable, consultation and reporting of findings of any requisite review and actions thereafter.

As any changes in the direction, approach and fine detail of the Core Strategy may have implications for the progress and content of the Regeneration DPD, the report sought agreement for a temporary delay to the programmed consultation in respect of the Preferred Options version of the DPD to ensure that any changes are properly incorporated into the Regeneration DPD.

Following consideration by Planning Committee, the report would be referred to Local Development Framework Members' Steering Group on 14th December 2010, and then to Cabinet on 20th December 2010 for Members' agreement.

RESOLVED that:-

1. A temporary delay to the publication, consultation and publicity in respect of the Preferred Options version of the Regeneration DPD be agreed.
2. A scoping exercise be carried out in order to assess the need to review the housing element of the adopted Stockton on Tees Core Strategy, and that this is on the basis that agreement and approval for any structure, timetable, reporting of findings and consultation in respect of any requisite review and actions is sought thereafter.

**P  
85/10**

### **Sustainable Design Guide SPD**

Consideration was given to a report that outlined that the Spatial Planning team were moving forward with the preparation of the Sustainable Design Guide Supplementary Planning Document (SPD). A draft report had been circulated for internal Council consultation and the amended document subsequent to this consultation was being presented to Members.

The SPD was intended to reflect Government guidance on good design and sustainability and to provide greater detail on Policy CS3 of the Core Strategy, which aimed to reduce the environmental impacts of new developments. The public and stakeholders were to be invited to make comments on the content of the SPD and the advice given. The document was intended to go out for public consultation in February/March 2011.

Following consideration by Planning Committee the report would be referred to Cabinet on 20th December 2010 for Members agreement.

RESOLVED that the report be noted.

**P  
86/10**      **Parking Provision in Developments SPD**

Consideration was given to a report that advised Members that Supplementary Planning Document 3: Parking Provision for New Developments had been revised and retitled Parking Provision in Developments. The SPD was part of the Local Development Framework and sets out guidance for applicants for planning permission on the parking standards requirements associated with development in the Borough.

The SPD had been revised and updated to reflect changes in Government guidance since the original SPD was adopted in 2006. The opportunity had also been taken to clarify and amend other minor aspects of the document and link it to the Core Strategy, particularly Policy CS2: Sustainable Transport. The public and stakeholders were to be invited to make comments on the content of the SPD in February and March 2011. Following this, any comments made would be taken into account where appropriate and it was anticipated that the document would be adopted as part of the Local Development Framework later in 2011.

Following consideration by the Planning Committee the report would be referred to Cabinet on 20th December 2010 for Members agreement.

RESOLVED that the report be noted.

**P  
87/10**      **1. Appeal - Mr Brian Johnson - 39 Darlington Road Stockton on Tees - 10/1334/FUL - DISMISS**  
**2. Appeal - Mr & Mrs Herring - Land North of Aislaby Road and East of Meadowcroft Aislaby - 10/0672/FUL - DISMISS**

RESOLVED that the appeals be noted.