

DELEGATED

AGENDA NO 8.
PLANNING COMMITTEE

DATE 21st June 2006

REPORT OF CORPORATE DIRECTOR OF
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

06/0957/REV

THE BUNGALOW AND GLENREA, THE AVENUE, EAGLESCLIFFE
REVISED APPLICATION FOR THE ERECTION OF 41 NO. SHELTERED APARTMENTS FOR
SALE TO THE ELDERLY, RESIDENT HOUSE MANAGER'S ACCOMMODATION, 20 NO. CAR
PARKING SPACES AND ASSOCIATED LANDSCAPING.

Expiry Date: 3rd July 2006

SUMMARY

Planning permission is sought for the erection of 41 no. sheltered apartments on land currently occupied by two residential dwellings comprising one bungalow (The Bungalow) and one two-storey detached house (Glenrea), on The Avenue, Eaglescliffe. The proposal would require the demolition of the existing properties.

A previous full application for 42 no. sheltered apartments on the application site (05/1194//FUL) was refused planning permission in October 2005 on the following grounds: -

- 01. The proposal would be out of keeping with the general pattern, standard and character of the area by reason of general bulk and massing within the site thereby resulting in an incongruous pattern of development to the detriment of neighbouring properties and the amenity of the area generally, contrary to Policy GP1 of the adopted Local Plan.**
- 02. In the opinion of the Local Planning Authority the proposal would be contrary to Supplementary Planning Guidance 4 : High Density Development : Flats and Apartments in that the location is considered to be unsustainable as it does not satisfy the sequential criteria to develop at the density proposed.**
- 03. The proposed vehicular access serving the application site is in close proximity to a principal road junction and the use of this access point would be likely to be prejudicial to the safety of pedestrians and the free flow of traffic on The Avenue and Yarm Road.**

The applicant has appealed against the refusal of planning permission and an appeal hearing has been scheduled for September 2006.

The proposal comprises 30 no. 1-bed and 11 no. 2-bed sheltered apartments for sale to the elderly. While anyone may purchase an apartment, they are sold on the basis of a 125 year lease requiring the accommodation to be occupied by persons over 60 years and in the case of a couple where one of the occupants is over the age of 60 years and the other is over the age of 55 years.

The application has given rise to a significant degree of objections from local residents and the parish council. The objections can be summarised as follows: access and highway safety matters; inadequate on-site parking provision; impact on appearance and character of the surrounding area; impact on residential amenity; lack of local facilities; over development of the site; impact on archaeological remains and impact on trees and ecology.

In the light of the previous refusal, the applicant has amended the proposed scheme to reduce the scale and mass of the two-storey projection facing the properties on Ashville Avenue. A unit of accommodation previously utilising the roof space has now been removed allowing for a decrease in roof height. The bulk has also been broken down into two elements that are pulled further away from the shared boundary with the Ashville Avenue properties. It is considered that the scale, massing and design of the development are considered appropriate for the site and the grounds for the previous refusal have been addressed.

In respect of the other two reasons for refusal, i.e. that the location of the proposal was unsustainable and did not satisfy the sequential criteria of SPG4 to develop at the proposed density and secondly highway safety in respect of the proposed access point; the applicant has reiterated their previous evidence and supporting information. On the basis of this information officers had recommended the previous application be approved, however Members decided to refuse the application on the above grounds. Mindful of the pending appeal, officers have re-examined the supporting statement and are of the opinion that the proposal is in general conformity with SPG4 and the application is considered to be in line with advice given in Planning Policy Guidance Note 3: Housing (PPG3). The proposed access arrangements have also been considered by the Head of Integrated Transport and Environmental Policy (HITEP) and raise no objection subject to a condition on the provision of a suitably constructed footpath linking the development to Yarm Road.

The ecological and archaeological issues have been adequately addressed and the application is recommended for conditional approval.

RECOMMENDATION

Planning application 05/1194/FUL be Approved with Conditions subject to:

01. The development hereby approved shall be carried out in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority.

Drawing Number(s) :- 1333/02/01B,1333/02/02,1333/02/03B,1333-02-04c,1333/02/05a,1333/02/06c,1333/02/07a.

Reason: To define the consent.

02. Notwithstanding any description of the materials in the application no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the building(s) have been approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control details of the proposed development.

03. A detailed scheme for landscaping and tree and/or shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development authorised or required by this permission is commenced. Such a scheme shall specify types and species, layout contouring and surfacing of all open space areas. The works shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner and any trees or

plants which within a period of five years from the date of planting die, are removed, become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure satisfactory landscaping to improve the appearance of the site in the interests of visual amenity.

04. Details of a scheme in accordance with BS5837, 1991 to protect the existing trees and vegetation shall be provided to the satisfaction of the Local Planning Authority. Such a scheme shall include details of a protective fence of appropriate specification extending three metres beyond the perimeter of the canopy, the fence as approved shall be erected before construction commences and shall be maintained to the satisfaction of the Local Planning Authority throughout the entire building period.

Reason: In the interests of amenity and the maintenance of landscaping features on the site.

05. The trees indicated to remain shall be retained and not felled, lopped or topped without the previous written consent of the Local Planning Authority. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased shall be replaced with trees of such a size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of amenity and the maintenance of landscaping features on the site.

06. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: In the interests of amenity and the maintenance of landscaping features on the site.

07. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building(s) is/are occupied or in accordance with a timetable to be agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure satisfactory landscaping to improve the appearance of the site in the interests of visual amenity.

08. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge into any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

09. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent pollution of the water environment.

10. No construction/building works shall be carried out except between the hours of 0800 and 1800 on Mondays to Friday and between 0800 and 1300 on Saturdays, nor at anytime on Sundays.

Reason : To ensure that the development does not prejudice the enjoyment of neighbouring occupiers of their properties.

11. Full details of the proposed means of disposal of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted and shall be provided in accordance with the approved details before the development is brought into use.

Reason: To achieve a satisfactory form of development.

12. No development shall take place within the area indicated until the applicant, or their agents or successors in title, has completed the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the local planning authority. Where important archaeological remains exist provision should be made for their preservation in situ.

Reason : The site is of archaeological interest.

13. No Development hereby approved shall commence on site until a Phase 1a+b desk study investigation to involve hazard identification and assessment has been carried out, submitted to and approved in writing by the Local Planning Authority. The study must identify industry and geologically based contaminants and include a conceptual model of the site. If it is likely that contamination is present a further Phase 2 site investigation scheme involving risk estimation shall be carried out, submitted to and approved in writing by the Local Planning Authority prior to any development hereby approved commences on

Reason: To ensure the proper restoration of the site.

14. No development hereby approved shall commence on site until a remediation scheme to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall identify and evaluate options for remedial treatment based on risk management objectives. No Development hereby approved shall commence until the measures approved in the remediation scheme have been implemented on site, following which, a validation report shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include programmes of monitoring and maintenance which will be carried out in accordance with the requirements of the report.

Reason: To ensure the proper restoration of the site.

15. With the exception of the house manager's accommodation, the dwellings hereby permitted shall be used for the purposes of Category II Sheltered housing only. Occupiers shall be:

- (i) persons of 60 years or over**
- (ii) persons of 55 years or over living as part of a single household with such person or persons**
- (iii) persons who were living as part of a single household with such person or persons who have since died.**

Reason : The scheme has been specifically designed for persons of conventional retirement age. Unrestricted occupation would be inappropriate due to the form and design of the development.

16. No development shall take place unless in accordance with the mitigation detailed within the protected species report (Bat Surveys, The Bungalow, Eaglescliffe - RPS 7

October ~~August~~ 2005) including, but not restricted to obtaining a DEFRA licence; adherence to timing and spatial restrictions; provision of mitigation in advance; undertaking confirming surveys; adherence to precautionary working methods

Reason: To maintain the favourable conservation status of protected species.

17. Old slates, coping stones, ridge tiles and roofs should be removed by hand, being aware that bats may be present beneath slates or tiles, within mortise joints, cavity walls, between loose stones, between lintels and in gaps around window frames. Any current bat access routes should be identified prior to the commencement of work and these access routes should be kept open for the duration of the work. The mitigation recommendations contained within the ecological survey report will be implemented in full. A Defra development licence will be obtained prior to any works on buildings demonstrated to contain bat roosts. All contractors shall be made aware of the potential presence of bats, of their legal protection and the requirement to contact English Nature if they are found during works. They shall also be made aware of the legal protection afforded to nesting birds. If bats are found during the works, work should cease immediately in that area and English Nature should be informed. If the work is subject to a Defra Licence and bats are found during the works in a location not covered by the licence, work must cease immediately and the advice of the Defra licence holder sought. Following completion of the works an ecologist will check that the mitigation has been implemented in accordance with the above and the architect's drawings and provide a report to the local planning authority. Demolition of stone or brick built buildings must not be carried out between November and March. Works should not start during the bat hibernation period, between mid-November and mid-March.

Reason : To safeguard bat habitats/species on the site

18. Development shall not begin until details of a footpath from the site to Yarm Road have been approved in writing by the Local Planning Authority, and the development shall not be occupied until that footpath has been constructed in accordance with the approved details.

Reason : In the interests of highway safety

THE PROPOSAL

1. The application proposes the demolition of two detached dwellings and the erection of 41 no. sheltered apartments. Further accommodation for occupation by a resident house manager is also incorporated into the scheme. Access would be from a single access from The Avenue leading to a car park towards the western boundary incorporating 20 spaces. The proposed building essentially comprises a block incorporating a low-level link in the middle of the building and stepping the eastern part of the building from the western end to achieve a perceived reduction of massing. The building is a mixture of 2, 2.5 and 3 storeys with a variation in ridge heights to break down the mass and add visual interest. The design incorporates the use of projecting bays, gable and dormer features and traditional building materials. The building is surrounded by a landscaped communal garden. A detailed site layout plan is attached at Appendix 2 and a sample of the elevational treatment is shown in Appendix 3.

2. The site is currently occupied by two residential dwellings set in large gardens. The dwellings are of modern design with no distinguishing features.

3. The site is located on the northeastern corner of the junction with Yarm Road and The Avenue, with a road frontage to both Yarm Road to the west and The Avenue to the south. The boundary of Eaglescliffe with Preston Conservation Area runs along the opposite side of Yarm Road. The northern boundary is formed by brick built boundary walls, mature trees and panelled fencing. The eastern boundary is formed by a Copper Beach hedge. The southern boundary is partially screened from the Avenue by a row of mature coniferous and deciduous trees set back behind a

low brick wall. The western boundary runs parallel with Yarm Road and features a band of mature trees subject to Tree Preservation Orders (TPOs). The immediate surrounding area is characterised by a mix of detached and semi-detached dwellings typically of Victorian and Edwardian character.

4. The remains of part of the Stockton and Darlington Railway are located along the western part of the site.

CONSULTATIONS

5. The following consultations were notified and any comments they made are below:

Councillor J Fletcher

The following comments are based on the information available to me - I reserve the right to alter or add to them in the light of information &/or arguments received up to the point when the Application comes to Committee.

Except insofar as proposals have changed in the current application from those in the one which is currently under appeal, my concerns remain the same.

While it is a pity to demolish 2 apparently serviceable dwellings, as they are not of historical interest or above-average architectural merit, I doubt whether this is a Planning consideration. It seems to me that the following are the main issues: Will the development fit the character of The Avenue, which is currently private dwellings, with a private school at the end? While I have not compared the heights of the proposed blocks with existing buildings on the opposite side of the Avenue (which are of individual design, and in one case with a tower) the sheer bulk of the development seems out of keeping. When the leaves are off the trees in Winter, the development would be visible from the Conservation area on the opposite side of Yarm Road.

Would the development qualify for exception from the requirements of SPG 4? The development is not social housing and would have a "catchment area" wider than Eaglescliffe in order to be filled with people with the appropriate needs and resources, so it does not need to be in this particular place. This is not a proposal for which there might be a loosening of the rules to fulfil a social need. The site is not sufficiently well served by public transport. Whilst the site is within 500m of the neighbourhood centre at Station Road there is no Post Office.

What will be the effect on traffic along The Avenue & at The Avenue/Yarm Road/Station Road junction?

No doubt SBC's engineers will advise whether the proposed development is suitable for all vehicular access onto the unadopted road in its current state. The complication is the possible redevelopment of Copsewood. I cannot conceive of The Avenue in its present state taking the existing traffic + that from 06/0957/REV + 7 extra units of housing in Copsewood's grounds. There is no in-curtilage pedestrian access from the proposed flats directly onto Yarm Road. As the development is planned for elderly people, unless an adequate footpath can be provided at the developer's expense, frail people will have no physical separation between themselves and vehicles using the Avenue. The proposed vehicular access to the site onto the Avenue should be tested against normal standard distance given the proximity of the traffic lights and the nature and volume of traffic on the surrounding highway network so I do not think that any relaxation of standards is appropriate. The in-curtilage parking provision may lead to off site parking problems given the nature of the surrounding area.

The Western end of the Application Site is the trackbed of the 1825 route of the Stockton & Darlington railway. While the Application does not contemplate much alteration to that end of the Site, it might be as well to include the usual watching brief for industrial archaeology. I would suggest some sort of interpretive feature for that end of the site to set out its history, adding an interest for potential residents and passers-by - ideally able to be tied into some future SBC strategy to promote tourism on our railway heritage.

Councillor M Rigg

On the evidence before me I can see no significant improvement over the plans which were rejected by committee last year. However, when the application comes to committee I am prepared to be convinced by evidence presented on the day.

Preston Parish Council

It is the opinion of the Council that you should consider the increased density of population which has already occurred in the near vicinity of this location; e.g. Burlington House, Swinbourne Road, Yarm Road and Witham Lodge while contemplating even more development. These have all happened in a very small area and with proposed developments here, as well as at Copsewood, Claireville Hotel and Hughenden would result in what the Council considers to be an unacceptably high density of development.

Such developments can only place an unsupportable demand on all the current amenities, from waste collection and sewage disposal to medical and dental services.

The Council would also like to draw your attention to the local bat community and the existing survey which was carried out and forms part of the application package. Given the limited nature of this investigation we would suggest that further work needs to be done to give a better conclusion.

The Council has previously commented on the possible problems associated with access to a three storey structure and we would reiterate these comments. The complaints might be less if the plans related to a two storey structure as this would also impact less on the bats.

Given the Council's previous opinion and the fact that the amendments appear minimal we would urge the refusal of this amended application.

Environmental Health Unit

Standard construction hours and contaminated land conditions be attached.

Head of Integrated Transport and Environmental Policy

In terms of highways there has not been a significant change from the previous application 05/1194/FUL therefore the comments dated 23rd September 2005 still apply and can be summarised as follows;

Parking

The proposed parking provision is acceptable.

Access

The proposed access to the development is a private access and is acceptable.

Pedestrians

The development is likely to attract residents with low car ownership; therefore it is not unreasonable to assume that the residents are likely to walk from the site to local public transport facilities and local shops.

To accommodate these pedestrian movements a suitably constructed footpath to the satisfaction of the Authority and maintained as fit for purpose is required from the development to Yarm Road. The footpath could in terms of highway safety, either be located on The Avenue or within the site boundary to ensure safe passage of residents walking to Yarm Road to access shops and public transport facilities.

Conclusion

The proposed parking and access arrangements are acceptable due to the low car ownership associated with developments of this type.

I have concerns regarding the safe passage of pedestrians to and from the development. However this would be overcome by a condition requiring the developer to provide a suitably constructed footpath to the satisfaction of the Authority linking the development to Yarm Road.

Tees Archaeology

Our main concern with this proposal was the impact of the car parking on the route of the Stockton and Darlington Railway. A design solution has been achieved where the line of the railway will be

preserved as a green space with the car parking area set out using 'grasscrete'. Would seek a condition to allow archaeological monitoring during the formation of the car park.

The Environment Agency

No further comments to make.

English Nature

Confirm that we would be willing to withdraw our current objection subject to conditions to ensure compliance with the bat report.

CE Electric UK

Standard mains record shown.

Northumbrian Water

Standard drainage conditions

Northern Gas Networks

No objection and mains record shown.

Landscape Officer

The site contains many trees and those of particular value are the group of mature oak, ash, horse chestnut, larch and elm located along the west boundary.

This group of TPO trees (East of Yarm Road TPO, 1980) is very significant in the area and it is of the utmost importance that these trees remain unaffected. The submitted plans show the site in context and the Site Plan drawing (No. 1333-02-04 Rev C) indicates the existing trees in relation to the proposed site layout.

The tree survey, which has been previously submitted, indicates the tree category for each tree within the site and an assessment to condition and vigour etc. My main area of concern was the location of 2 oak trees alongside the entrance drive into the site. These appear to largely remain unaffected by the proposed development with the new drive access being on the same alignment as the existing surface.

I must emphasise though, that the excavation for any new service runs into the site must be located outside of the tree protection zones. Services must be routed away from all retained trees to prevent severance of roots during the excavation of trenches. Where this is not possible approved trenching methods shall be in accordance with NJUG10. Routes to be provided for our consideration prior to excavation.

Other trees are located to the north south and east boundaries. These are not as significant as the group, although it would be beneficial to the development and adjoining properties that as many of these are retained as possible. An existing 3.0m high (approx) beech hedge forms the east boundary, which provides good screening for the adjacent property.

Some trees (lime, ash sycamore and cedar) are present within the site and would require felling to construct the development. A detailed planting scheme should be provided, indicating new trees as replacements

To soften the impact of the development on the surrounding area, new tree planting should be provided particularly to the north and south boundaries.

Details of the proposed planting and tree protection are required, along with hard landscaping proposals. Full details should be provided to the following minimum standard:

- A. A detailed landscape plan for hard construction indicating materials and construction methods.
- B. Boundary treatment details.
- C. A detailed planting plan indicating soil depths, plant species, numbers, densities, locations, and sizes, planting methods, maintenance and management.
- D. Protection measures for retained trees to ensure that no damage occurs during the demolition and construction periods. The protection area must exceed that of the individual tree canopies and be in accordance with B.S.5837: 2005

(recommendations) Trees in relation to Construction. Full details of the tree protection measures should be submitted for approval and should be erected, to the satisfaction of the council, prior to any works commencing on site.

Overall, I have no objection to the application.

Development Plans Officer

The site is located adjacent Eaglescliffe local centre, and as such is considered acceptable for flatted development in accordance with Supplementary Planning Guidance 4: High Density Development: Flats and Apartments, Adopted 2005. The proposed development of approximately 75dph which is higher than the indicative figure suggested in SPG4 of 60dph. However, Eaglescliffe has a railway station which greatly increases its sustainability, and therefore the Council should accept a higher figure.

The nature of the accommodation is also a factor, as each unit is not a full self-contained dwelling. Therefore the proposed density is misleading. As such, the scale of the development can be judged more accurately on the proposed plot coverage and building format. Given this factor, the proposed density is acceptable.

The revised block design addresses the previous issues of overlooking whilst maintaining the appearance of a large house in a large plot, in turn maintaining the character of the street. Given the above I have no objection in principle to the proposal.

6. The local residents and occupiers have been individually notified of the application. A site notice has been posted. 41 letters of objection have been received. The following postal addresses were given (7 email objections were received so postal addresses unknown) – Ashville Avenue, Yarm Road, Tees Bank Avenue, The Avenue, Albert Road, Urray Nook Road, Pinewood Road, Formby Walk, Quarry Road, Pennypot Lane, The Cresecent, Leven Road, Huckleberry Lane (Massachusetts) and South Grange (Seaham, Co. Durham). The objections can be summarised as follows: access and highway safety matters; inadequate on-site parking provision; impact on appearance and character of the surrounding area; impact on residential amenity; impact on archaeological remains, impact on trees and ecology; contrary to local plan policy and Government Guidance; limitations of drainage system; restricted covenant on site; impact on foundations of adjoining property and noise vibration and dust.

7. Nathaniel Lichfield and Partners (NLP - Planning Consultants) representing a local resident have objected. NLP fully support the decision of the Council to refuse planning permission for the previous scheme and consider the amended scheme has had an insignificant impact on the overall scale and massing of this dominant building. NLP object on the grounds that the scale and massing of the proposed building (up to 3 storey in height, 63.2m in length and 36.6m in overall width) would appear incongruous and out-of-keeping and would have a dominating and overbearing impact on the character and appearance of the area and represents overdevelopment of the site. The proposal would have a detrimental impact on the visual appearance of the streetscene contrary to Policies GP1, HO3 and HO11 of the Local Plan.

8. Furthermore the proposed development would have an overbearing impact on the amenity of neighbouring properties to the rear along Ashville Avenue. The northern elevation is only 8 metres from the party boundary. We consider it would be unreasonable to allow the erection of a building that is 2 storeys in height within such close proximity to the party boundary. This would allow opportunities for direct overlooking onto the rear gardens of 4, 6, and 8 Ashville Avenue, to the detriment of residential amenity.

9. The Eaglescliffe with Preston Conservation Area bounds the opposite side of Yarm Road from the proposed development. During the summer months, the majority of the proposed development would be screened from the Conservation Area by the mature deciduous trees along the western boundary. However, following the fall in autumn, the total extent of this dominant development would be revealed to the Conservation Area. The dominating development would detract from the

character and appearance of the Conservation Area contrary to both local and national planning policy.

10. In the context of the surrounding area it is considered that the proposed density of 77 dwellings per hectare is too high and would result in an insensitive development out of keeping with the character of the townscape, contrary to PPG3. Furthermore the Council's Supplementary Planning Guidance (SPG) "High Density Development: Flats and Apartments" requires developments between 71-80 dwellings per hectare to be located within 100m of a town centre. However, Stockton Town Centre is the nearest town centre located 4.5km away. Station Road Neighbourhood Centre is the closest designated centre being located within 100m. The SPG requires developments situated within 100m of such a centre to have a density of up to 60 dwellings per hectare. The proposed development exceeds this standard by 28%, a most significant amount. In this instance, no adequate justification has been provided by the applicant to demonstrate exceptional circumstances for such a significant increase in density from the Council's adopted standard or densities advised within PPG3. Indeed a limited range of local facilities and shops are provided within walking distance of the site, to serve daily needs, and accordingly such a high density development is considered to be unsustainable in this location. Furthermore the development does not satisfy the sequential criteria to develop at the density proposed as set out in the SPG.

11. In terms of Highway safety, the site is located 35m from the junction of the Avenue with Yarm Road. The proposed access would be located only 25m from the stop line, 15m less than the distance required by the Design Guide. This is a most significant departure from this standard which has been agreed by the Tees Valley Local Authorities. Given the previous reason for refusal on highway safety and the trip generation from the proposed development onto an extremely busy road, it is critical that the standards are not relaxed which would compromise pedestrian and vehicle safety, contrary to Policy GP1, H03 and H011 of the Local Plan.

12. The Engineering and Transportation Department in their comments dated 23 September 2005 state that they have concerns regarding the safe passage of pedestrians to and from the development. Accordingly they have requested that a 1.8m wide footway be provided across the full frontage of the site. During the consideration of the previous planning application it was suggested that their concerns could be overcome by a planning condition requiring the developer to provide a suitably constructed footpath linking to Yarm Road. As we understand the situation, the applicant's do not have the ability to provide such a footpath and the condition is therefore unlawful. This is explored in more detail below.

Provision of a footpath On-Site

The construction of a footpath within the site would:

- Have a detrimental impact on the remains of the Stockton and Darlington Railway which is of great importance, identified by Tees Archaeology as a major heritage asset; and
- Require the removal of mature trees which are protected by Tree Preservation Orders, are of high visual value and enhance the setting of the Preston Conservation Area.

The committee report records the importance of the above and indeed the applicant has previously amended the scheme to avoid any impact on these most sensitive areas.

Provision of a Footpath Off-Site

The construction of a footpath outside the site boundary on the edge of The Avenue would not be possible for the following reasons:

- The Avenue is a private road in multiple ownership which precludes delivery given all properties have access rights across the entire length and width of The Avenue; and

- The provision of a footway on The Avenue would reduce the width of this road to such an extent that insufficient space would be provided for the safe passage of two cars or a car and a coach, to the detriment of the free flow of traffic and highway safety.

Lawfulness of a Condition

The Office of the Deputy Prime Minister's Circular 11/95: *The Use of Conditions in Planning Permission* and the amendment as a result of the Judgement in the Merritt case provide advice on the use of planning conditions stating:

"When there are no prospects at all of the action in question being performed within the time-limit imposed by the permission, negative conditions should not be imposed." (Amended paragraph 40, Circular 11/95)

We understand the Council's Principle Solicitor considered the lawfulness of imposing a Grampian condition that prevented development until a scheme for the improved pedestrian access has been approved and implemented. In a more recent High Court case (Merritt) provided a ruling in respect of conditions and the footnote at the bottom of Circular 11/95 was amended to state:

"A policy of refusing permission where there was no reasonable prospect of planning conditions being met could be lawful, but sound planning reasons for the refusal should be given". (Amended footnote)

Accordingly, a planning condition requiring the provision of a footpath prior to the occupation of the development would conflict with national policy and recent Court decisions, particularly the Judgement in the Merritt case. Accordingly we question the reasonableness and lawfulness of such a condition and on this basis we respectfully request that planning permission not be granted.

13. We understand that English nature have objected on the grounds of insufficient information has been submitted regarding protected species. We request that the application be refused on the grounds that insufficient details have been submitted to enable a full assessment of the scheme on the impact on protected species.

14. The above objections are considered in the main body of the report.

PLANNING POLICY CONSIDERATION

15. Where an adopted or approved development plan contains relevant policies, section 54A of the Town and Country planning Act requires that an application for planning permission shall be determined in accordance with the Plan, unless material planning considerations indicate otherwise.

16. In this case the relevant Development Plans are the Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP)

17. In respect of housing, the Tees Valley Structure Plan reflects national and regional guidance. The strategy adopted Tees Valley Structure Plan is one of sustainable urban growth with the majority of new development taking place on previously developed land within urban areas or along public transport corridors on the edge of the main built-up areas. The Structure Plan also supports the need for increased residential densities and the provision of affordable housing as appropriate.

18. Adopted Stockton on Tees Local Plan Policy GP1 requires all proposals for development to be assessed not only against Structure Plan policy, but also against a number of criteria which include concerns about the external appearance of the development, effect on amenities of the occupiers

of nearby properties, access and parking arrangements, need for high standard of landscaping and its relationship with the surrounding area.

19. STLP Policy HO3 states that within the limits of development, residential development may be permitted provided that the land is not specifically allocated for another use, not underneath electricity lines, does not result in the loss of a site which is used for recreational purposes, is sympathetic to the character of the locality, takes account of important features within the site, does not result in an unacceptable loss of amenity to adjacent land and satisfactory arrangements can be made for access and parking.

20. STLP Policy HO11 states that new residential development should be designed and laid out to provide a high quality of built environment in keeping with its surroundings, incorporate open space, provide a satisfactory degree of privacy and amenity, for new dwellings and existing occupiers of nearby properties, pay regard to existing features and ground levels, provide adequate access, parking and servicing, and incorporate features to assist in crime prevention.

21. STLP Policy EN30 states that development, which affects sites of archaeological interest, will not be permitted unless an investigation of the site has been undertaken and an assessment has been made of the development upon the remains and where appropriate provision has been made for preservation in situ.

22. Planning Policy Guidance Note 3 "Housing" advises that most additional new housing should be on previously developed land within urban areas to minimise the amount of greenfield land developed. PPG3 states: Local planning authorities should therefore: avoid developments which make inefficient use of land (those of less than 30 dwellings per hectare net); encourage housing development which makes more efficient use of land (between 30 and 50 dwellings per hectare net); and seek greater intensity of development at places with good public transport accessibility such as city, town, district and local centres or around major nodes along good quality public transport corridors.

23. Alongside the above, PPG3 states: New housing development of whatever scale should not be viewed in isolation. Considerations of design and layout must be informed by the wider context, having regard not just to any immediate neighbouring buildings but the townscape and landscape of the wider locality. The local pattern of streets and spaces, building traditions, materials and ecology should all help to determine the character and identity of a development, recognising that new building technologies are capable of delivering acceptable built forms and may be more efficient. Local planning authorities should adopt policies which: create places and spaces with the needs of people in mind, which are attractive, have their own distinctive identity but respect and enhance local character; promote designs and layouts which are safe and take account of public health, crime prevention and community safety considerations; focus on the quality of the places and living environments being created and give priority to the needs of pedestrians rather than the movement and parking of vehicles; avoid inflexible planning standards and reduce road widths, traffic speeds and promote safer environments for pedestrians; and promote the energy efficiency of new housing where possible

24. Planning Policy Guidance Note 13 "Transport" seeks to promote more sustainable transport choices, promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car.

25. Stockton on Tees Borough Council's adopted Supplementary Planning Guidance 4 (SPG 4) is concerned with high-density development. The SPG develops the themes set out in it to ensure that flats are built in appropriate locations, are well designed, and add value to the housing stock of the Borough. The guide does not seek to put a blanket ban on flats being built, nor encourage an 'anything goes' policy, but gives guidance to developers about what the Council expects them to produce, as well as to inform the public how and why decisions are made.

MATERIAL PLANNING CONSIDERATIONS

26. The main considerations of this application relate to the impact of the proposed development on the locality in terms of residential amenity and visual impact; vehicular access and highway safety; impact on archaeology and ecology and whether it satisfies the requirements of the Local Plan Policies and Government Guidance. Each of these issues will be examined in turn.

Site Characteristics, Detailed Design and Residential Amenity

27. The site is located within the urban area of Eaglescliffe and is within the limits of development and is adjacent but not in the conservation area. Policy HO3 of the local plan indicates that residential development within the limits of development is acceptable provided it meets a number of criteria.

28. The site is currently occupied by two residential dwellings set in large gardens. The dwellings are of modern design with no distinguishing features and make no positive contribution to the character or appearance of the area. The site does however contain a number of mature trees, some of which are the subject of TPOs and the remains of the Stockton and Darlington Railway.

29. The site is a prominent site situated adjacent Eaglescliffe and Preston Conservation Area, which runs along the opposite side of Yarm Road. The Avenue is characterised by mature large properties within sizeable gardens and the new building has been designed to reflect the local vernacular in terms of detailing and materials and the height and massing of much of the existing property in the wider area.

30. The building has been positioned towards the eastern boundary to capitalise on the existing belt of trees to provide screening whilst retaining their integrity. Distance to road traffic noise from Yarm Road is also maximised and the archaeological remains of the Stockton and Darlington Railway are preserved.

31. The proposed layout has been designed to ensure that adequate distances are met. The nearest neighbouring properties to the north are 2,4,6,8 and 10 Ashville Avenue which are located approximately 24 metres at their closest point to the proposed development which presents a 2 storey elevation with only one kitchen window featured at first floor level. The remaining parts of the building are set back between approximately 30 metres (98.4 feet)(3 storey elevation featuring one kitchen window) and 36 to 39 metres (128 feet) (elevations featuring primarily kitchen and bedroom windows). To the east lies a two storey detached dwelling 'Ballasalla' which is separated from the application site by a mature hedge and presents an end gable featuring a conservatory to the proposed development at a distance of approximately 10 metres (33 feet). This distance increases to approximately 16 metres (52.5 feet) at first and second floor level where the elevations feature one kitchen window at each floor facing the gable of 'Ballasalla' and it is considered that there would be no adverse impact on neighbouring amenity. To the south of the proposed development and on the opposite side of the Avenue is an outbuilding associated with a large dwelling 'Copsewood' which is approximately 20 metres (66 feet) distance and is not used for residential accommodation.

32. The internal arrangements together with the positioning of window openings have been designed to negate any overlooking and it is considered that the proposal would not impinge on the privacy or amenity of surrounding residential properties.

Planning Policy and Flatted Development

33. The proposal meets many of the principles and policies set out in national guidance and in the Local Plan

34. The site is located within a residential area characterised by predominantly large detached properties within large gardens. The density of development as proposed is approximately 77 dwellings per hectare, over the government guidance of 30-50 dwellings as set out in PPG3. The Guidance also states that this density can be higher in sustainable locations where local amenities and a regular bus route operates within a reasonable distance so as not to encourage the use of the private car. In this case the application site is considered a sustainable location as it is within walking distance to local services, a railway station and on a main bus route.

35. Flatted development by its very nature is high density and flats can be seen as a sustainable form of development where housing density is increased thus reducing pressure for greenfield land. The site is considered to be previously developed land.

36. Relevant to the consideration of this application are the location and density matters raised in SPG 4. The Guidance develops the themes set out in it to ensure that flats are built in appropriate locations, are well designed, and add value to the housing stock of the Borough. The guide does not seek to put a blanket ban on flats being built, nor encourage an 'anything goes' policy, but gives guidance to developers about what the Council expects them to produce, as well as to inform the public how and why decisions are made.

37. Paragraph 5.7 of SPG 4 sets out the Council's sequential criteria based approach to assessing an appropriate location for proposals for high density. Paragraph 7.9 refers to density and gives guidance in terms of indicative maximum densities relative to services and facilities where flats would be considered acceptable. The proposed density at 77 dwellings per hectare is above the indicative figure of 60 dph suggested in SPG4 for this type of location but the guidance allows for, but clearly places the onus on the developer to demonstrate that the scheme has earned a higher density through exceptional proximity to a range of services and facilities.

38. In respect of density the applicant states that sheltered apartments, by virtue of their character, including the extent of communal facilities that are provided, result in the provision of smaller than average size apartments. A strong emphasis is placed upon creating a sense of community for the residents within the developments and this is promoted through the use of the communal facilities. The resultant effect of this is, less reliance upon, and time actually spent within, the confines of the self-contained apartment, such as would be typical within other 'flatted' developments. As such, providers of sheltered accommodation are able to provide higher notional densities, in terms of apartment numbers, within their developments than would be achieved by a conventional, general market developer. The applicant goes on to state that a simple calculation of the development's notional density is not therefore an appropriate measure when considering a sheltered housing proposal.

39. In terms of location and the criteria set out in paragraph 5.7, the proposed development is for sheltered apartments within the limits to development, on previously developed land and within 500 metres of a stop on a regular main bus route, within walking distance of a railway station and within 100 metres of a local retail centre and thus accords with the guidance and the general principles set out in PPG3.

40. Given the nature of the flats i.e. generally smaller than self-contained units which share a number of communal facilities, other elements of the scheme alongside density need to be scrutinised to ensure the scale of development is appropriate for the area.

41. PPG 3 advocates the use of good design where the proposal takes account the character of the locality in which it is proposed. It is considered that the design, bulk and massing of the proposed building has the necessary design quality for this prominent site and would have a satisfactory relationship to the surrounding area and would not result in the loss of buildings that currently afford a positive contribution to the character and appearance of the surrounding area.

The development on previously developed land at higher density is encouraged through national guidance and is highly accessible with good links to local services and facilities.

42. In conclusion in terms of national guidance and local planning policy and the guidance in SPG4 there is policy justification and support for a development of this density in this location.

Parking and Highway Matters

43. Access would be from a single access from The Avenue leading to a car park towards the western boundary incorporating 20 spaces. In assessing the proposed parking provision, HITEP has considered the information provided by the applicant regarding parking demand associated with McCarthy and Stone Category II sheltered housing schemes since 1996. Furthermore two existing McCarthy and Stone sites in the Tees Valley with parking standards similar to that proposed had been inspected when the previous application was submitted and the parking available at the sites appeared to be sufficient to meet demand. Having regard to Government guidance and the local area it is considered that the level of parking arrangements are satisfactory.

44. In terms of the proposed access arrangements, a single access is proposed approximately 25 metres from the junction of The Avenue with Yarm Road. The stop line for the traffic signals on the Avenue is set back approximately 10 metres to allow traffic to turn into The Avenue from Yarm Road as the radii of the kerb line is tight. This means that the access would be approximately 15 metres from the stop line. Although the location of the access does not meet the Council's specification due to its close proximity to the stop line, in view of the light traffic flows on the Avenue and from the site, traffic should be able to negotiate the access signals safely and it is considered that there is no demonstrable harm to highway safety.

45. The occupants of the proposed development will generally be retired and a low car ownership is anticipated. Therefore, there should be limited traffic movements during peak periods (usually associated with work trips). The Avenue is busiest at school start and finish times and has little traffic demand at other times. Traffic queues at the signals on The Avenue outside of peak periods rarely exceed two vehicles. Vehicles entering The Avenue will do so at low speeds due to the operation of the signals and the sharp radii of the turning movements when leaving Yarm Road.

46. The analysis of the access has been on the basis of the access forming a highway junction. The traffic generation of the site during peak traffic hours has been shown to equate to the existing private accesses and therefore could be considered as such, where junction spacing specifications onto unclassified roads are not required.

47. As stated previously the development is likely to attract residents with low car ownership, therefore it is not unreasonable to assume that the residents are likely to walk from the site to local public transport facilities and local shops.

48. A more clearly defined pedestrian route is available on the South side of The Avenue with crossing facilities at the signals however this does not accommodate the anticipated pedestrian movements from this development.

49. To accommodate these pedestrian movements a suitably constructed footpath to the satisfaction of the Authority and maintained as fit for purpose is required from the development to Yarm Road. Accordingly a condition requiring the developer to provide a suitably constructed footpath to the satisfaction of the Authority linking the development to Yarm Road forms part of the recommendation.

50. The Council's Principal Solicitor has considered NLP's comments and is of the opinion that in terms of the lawfulness of the condition, imposing a Grampian condition that prevents development

until a scheme for improved pedestrian access has been approved in writing by the Local Planning Authority and implemented in accordance with the approved scheme is lawful.

51. How the developer then meets this condition is for them to determine. From a planning point of view there is case law, which provides that a Grampian condition can be imposed even if obstacles for the developer to meet the condition seem apparently insuperable - the case states "a would-be developer may be faced with difficulties of many different kinds, in the way of site assembly or securing the discharge of restrictive covenants. If he considers that it is in his interests to secure planning permission notwithstanding the existence of such difficulties, it is not for the planning authority to refuse it simply on their view of how serious the difficulties are. To put this into context an example related to a development which required access over land owned by the local authority and a condition was imposed requiring the access over the land to be acquired from the Council before development could be commenced - in the knowledge that the Council would refuse any such permission and would not enter into a 106 agreement about it. The condition was upheld as being Wednesbury reasonable.

52. Furthermore Circular 11/95: The Use of Conditions in Planning Permission referred to by NLP refers to case law which provided that the advice in the Circular is not mandatory and should not be applied in every case regardless of the circumstances - and the case of *British Railway Board v Secretary of State for the Environment and Hounslow LBC [1994]* provided that the mere fact that a desirable condition, worded in a negative form, appears to have no reasonable prospects of fulfillment does not mean that planning permission must necessarily be refused as a matter of law.

53. This case was considered in the Merritt case referred to by NLP and was not overturned and in any event the Merritt case referred to was where the development required an access road to be built over land owned by the Council which the Council refused to allow or refused to sell the land for the access road. The High Court agreed on appeal that a Grampian condition in these circumstances was reasonable (even though it was an insuperable obstacle to the permission being implemented).

Archaeology and Ecology

54. The Stockton and Darlington Railway ran through the western part of the site and its remains are of great importance. In order to ensure the continued preservation of this surviving stretch of the line, the proposed car parking area has been revised to remove the turning head and replace the proposed hard surface with a green surface composed of seeded Hoofmark Golpa 'grasscrete' which will be built-up above the existing levels to preserve the line of the railway beneath. Tees Archaeology is satisfied with this arrangement. The applicant has indicated their willingness to incorporate an interpretation board to inform the general public about the historic remains.

55. The applicant has provided an ecological scoping survey and bat survey and found that bat activity in the area actually originates from a bat roost outside of the site. Notwithstanding this, a full assessment of the potential impact of the proposed development upon this bat population has been carried out and appropriate mitigation works proposed. English Nature has withdrawn their objection subject to a condition to ensure compliance with the bat report.

56. There are a number of attractive mature trees on the site that have been retained within the development. Where trees are to be removed to facilitate the development, these would be replaced by additional tree planting.

CONCLUSION

57. It is considered that the scale, massing and design of the development are considered appropriate for the site and the application is considered to be in line with advice given in Planning

Policy Guidance Note 3: Housing (PPG3). The proposed access and parking arrangements have been considered by HITEP and raises no objection subject to a condition on the provision of a suitably constructed footpath. The ecological and archaeological issues have been adequately addressed and the application is accordingly recommended for approval with conditions.

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Financial Implications – N/A

Environmental Implications – As report

Community Safety Implications – As report

Background Papers – Stockton on Tees Local Plan, PPG3. SPG4, App. No. 05/1194/FUL

Human Rights Implications - The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

Ward	Eaglescliffe
Ward Councillors	Councillor M.F.Cherrett
	Councillor J.A.Fletcher
	Councillor M. Rigg