

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**12 December 2007**

**REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**07/2923/FUL**

**Former Site Of The Bungalow And Glenrae, The Avenue, Eaglescliffe  
Retrospective application for erection of single storey substation/buggy store**

**Expiry Date 12 December 2007**

**SUMMARY**

Retrospective planning permission is sought for the erection of a detached building containing a substation/buggy store for the 42 no. sheltered apartments currently being constructed on land formerly occupied by two residential dwellings. The building constructed has a different form to that shown on the drawings approved on appeal for the 42 no. sheltered apartments under applications 05/1194//FUL and 06/0957/REV see Appendices 1 to 5). The erected building is in an almost an identical location to that as approved but its proportions have changed to make it a squarer floor plan (see Appendices 6 to 8). This is a completely new full application for the building as constructed and not a variation of the consent granted on appeal. The developers could revert to the previously approved form, but the details are not as comprehensive and the authority would have little or no control over the elevational treatments.

The application has given rise to a degree of objections from local residents, CPRE and Eaglescliffe Preservation Action Group. The objections can be summarised as follows: access and highway safety matters; impact on appearance and character of the surrounding area; impact on residential amenity; impact on archaeology, trees and ecology. It should be noted that the application does not involve a new access and footpath other than those arrangements previously approved on appeal.

A small detached building for a combined use as a sub station and an electric scooter charge bay was shown on the original and subsequently amended schemes submitted in the 2005 and 2006 applications for the sheltered apartments (see Appendices 1 to 5) and the changes to the scheme for consideration are considered to be relatively minor (see Appendices 6 to 8). The impacts on residential amenity, access, appearance and character of the area, trees, archaeology and ecology have previously been considered under the previous applications and found to be acceptable by the Planning Inspector. The application is therefore recommended for retrospective approval.

**RECOMMENDATION**

**Planning application 07/2923/FUL be Approved subject to**

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

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>1333/101</i>	<i>12 October 2007</i>
<i>1333/102</i>	<i>12 October 2007</i>

**Reason:** *To define the consent.*

### **Informative**

It is considered that the development which has been undertaken on site has no significant impact on surrounding properties or their occupiers and has a limited impact on the character of the street scene in the requirements of Policy GP1 of the Stockton on Tees Local Plan and that there are no material considerations which suggests the application should be determined otherwise.

### **BACKGROUND**

1. Previous approvals

#### **05/1194/FUL**

Erection of 42 no. sheltered apartments for sale to the elderly, resident house manager's accommodation, 20 no. car parking spaces and associated landscaping. This application was approved on appeal following Member's decision to refuse permission. The site plan drawings submitted with the original application (see Appendix 1) and that specified in the list of those approved by the Planning Inspector (see Appendices 2 & 3) show the position and size of a substation/electric buggy charging bay building.

Members refused permission for the following reasons:

- 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.*

An appeal against the above decision was heard at a Planning Inquiry. The Planning Inspector concluded that the proposed development would not cause unacceptable harm to the character and appearance of the area, that it would be in a sustainable location and that the proposals would not prejudice traffic circulation or highway safety in the vicinity of the site. In upholding the appeal and granting planning permission the Inspector imposed 15 conditions on the development. The conditions have been complied with and the development is under construction.

## 06/0957/REV

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. The site plan drawings submitted with the original application (see Appendix 4) show the position and size of a substation/electric buggy charging bay building. Members refused permission on 21 June 2006 for the following reasons:

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, H03 and H011 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. Contrary to policies GP1, H03 and H011 of the adopted Local Plan.***

The appeal against the decision was heard at a Planning Inquiry. The site plan drawings specified in the list of those approved by the Planning Inspector (see Appendix 5) show the position and size of a substation/electric buggy charging bay building. The Planning Inspector concluded that the proposed development would not cause unacceptable harm to the character and appearance of the area, that it would be in a sustainable location and that the proposals would not prejudice traffic circulation or highway safety in the vicinity of the site. In upholding the appeal and granting planning permission the Inspector imposed 15 conditions on the development.

## 2. Withdrawn applications

## 07/0382/ADV

An advertisement application for the erection of freestanding non-illuminated 'V' board advertising sign with flag poles was made but the application was withdrawn without a decision being made.

## PROPOSAL

3. The application is for retrospective consent for the erection of a differently proportioned substation/buggy store within the grounds of the sheltered apartments currently under construction on the site. A combined substation/buggy store was located in a similar position in the planning permissions granted on appeal for the demolition of two detached dwellings and the erection of 41 no. sheltered apartments with accommodation for occupation by a resident house manager. This current application does not relate to any other matters that objectors say have changed. No new access and footpaths are proposed. An access and footpath has been constructed as approved in the original scheme from The Avenue leading into a car park towards the western boundary incorporating 20 spaces within the grounds.
4. The current application relates to an erected brick building comprising a single storey block of 6.885m x 6.135m external dimensions and a floor area of 42sqm. The building has a slate grey tiled hipped roof with a verge height of 2.8m of an almost pyramidal shape, with a short (0.9m long) ridge 4.8m above ground level. There are timber faced door openings on the side facing into the site for the sub station and its switch room access and there is one gated opening on

the western elevation for buggy access. A detailed site layout plan is attached at Appendix 3 and the elevational treatment is shown in Appendix 4.

## **CONSULTATIONS**

The following Consultations were notified and any comments received are set out below:-

### **Councillors**

**Cllr John Fletcher**  
Eaglescliffe Ward

The following comments are on the basis of the information currently available to me. I do not know why the developer now feels that it is necessary to build the substation/buggy store not as in the applications allowed on appeal; the developer is a specialist co. in this sort of building. Does the current Application, if approved, have the effect of allowing the main building allowed on appeal to be erected without the substation & buggy-charging point as shown in the approved Applications, with the building described in the current Application substituted?

Para. 3.1 to 3.3 of the Design & Access Statement do not correspond with the plans. I think that the Statement should read:

Para. 3.1 - Vehicular access to the development is proposed from The Avenue...

Para. 3.2 , 2nd sentence - The new footpath will be along the northern side of The Avenue.

Were a new road & footpath access onto the Application site directly from Yarm Road proposed, as implied in the wording of the Statement, then I would wish to make further representations.

Mrs W Campbell of South Lodge, The Avenue, Eaglescliffe, STOCKTON-ON-TEES, TS16 9AS, has drawn my attention to the fact that part of the earthworks of the Stockton & Darlington Railway of 1825 have been concreted over and used for hard standing for the heavy plant. This is contrary to the understanding of all at the time of the original applications that the remains would not be disturbed. If the Developer is not in breach of any development control by doing this, then to protect such remains in future, do we need something explicit in the LDF? If so, can you please refer this point to SBC Spatial Planning?

### **Parish Council**

No comments received.

### **Environmental Health Unit**

Further to your memorandum regarding the above, I have no objection to this application.

We had concerns regarding noise from the substation however given the low level of noise and the fact that it is completely enclosed we have no objection. Should complaints result in the future we would be able to address by increasing the insulation of the structure.

It is a similar position in relation to electromagnetic radiation where immediate access to the equipment will be confined to those accessing the building, which will offer protection to adjoining properties as well as users of the buggy store.

There is no proven link between emf exposure and ill health and the strength of the field will be stronger to the substation than from routinely used electrical equipment such as tv's and computers, however the sub station will have the benefit of enclosure, distance and reduced exposure time to reduce the level of risk in comparison with emf exposure in the home. So again we have no objection given that the substation is enclosed.

Hope this assists to explain our position.

## **PUBLICITY**

Neighbours were notified and any comments received are below (if applicable):-

### **Win Campbell**

South Lodge' The Avenue

#### **Letter 1**

When I have looked at other cases where Planning Consent has been given there has usually been an add line stating that once consent has been given no changes can be allowed to an approved plan without rendering the whole application approval invalid, and making it necessary to resubmit the whole plan.

The McCarthy & Stone Application was considered without the details of this Electrical Substation/Buggy Store, ....why is it permissible for them to now apply for permission for this building in retrospect without putting the whole application at risk? This would seem to me to be particularly relevant because of the implications regarding the 'Party Wall Act' which also seems to have been ignored in this case. How can a Company with the experience of McCarthy & Stone omit to include such a requirement - they have built these developments throughout the country and will surely be well aware of what is required and when.

An Electrical Substation of this kind will cause considerable noise nuisance to neighbours and it should have been included in the original plan, so that it could have been given full consideration in the overall picture. It can be noted that the local Planning Committee refused permission for this plan, so the Inspector should have had full details of this proposal to enable him to make a proper fully educated decision base on ALL the facts. I would appreciate your comments as soon as possible.

#### **Letter 2**

Thank you for dealing with my queries personally. May I please ask a few more questions?

1. There seems to be no correlation between the retrospective application for the substation and the inclusion within it of a new access road and a new path. Is there some explanation why the two have now been combined and included in the application?
2. Many made the point about the lack of buggy parking at the time of the original applications. Indeed it was pointed out that there was a considerable lack of consideration to the needs of the disabled. It would seem to be a very late consideration by McCarthy & Stone to include this now, is it simply a means of including this alteration to the access road? Surely if there are changes to the access road and footpath then this should also be a separate matter and it is not acceptable to include this in changes to the buggy store/substation - is it?
3. The buggy store/substation is already built - is this therefore an illegal construction, or would it only become illegal if approval is not obtained?
4. This building is in the flight path for nesting bats - has provision been made with consideration to this fact?

Also on a separate note, have the archaeological remains been preserved? The area where the Darlington & Stockton Railway Line remains were has simply been concreted over. Will the remains still be in tact underneath? It will be a great relief if they have been preserved.

Thank you very much for your consideration, I will await your comments.

### **Letter 3**

Regarding the above application, I would like to lodge an objection to the plan.

I have made comments previously, some of my questions remain unanswered, but I would like to make my objection for the following reasons:-

Regarding the Substation:-

There is not enough information on the plan to make any proper judgement on the size of the building or its closeness to neighbours.

Why provide for scooters now? At the time of the application we were told that there was no requirement for scooter parking as this building was not for disable or infirm, so these facilities were not required. Why the change of heart at this late date?

If parking for scooters is required then why make such a facility so far away from the main entrance. This in itself shows no regard to the needs of the disabled.

The path and access road:-

There are changes to the access road and the footpath, which would require a separate addendum. Why have these changes been hidden in this revised plan for the substation/buggy parking facility? Why have the residents of the Avenue and the School not been consulted about these changes to the road and footpath, as all road users have rights of access over the pavement and why has this not been considered by Highways?

If this revised application is to give serious consideration to the needs of the disabled then how can a rumble strip pavement be appropriate? There would appear to be serious flaws in this revised application. There was no serious consideration to the needs of the disabled in the original application and this plan although appearing to give lip service to these needs does not appear to be very well thought out. It is for all these reasons that I say that this is not a suitable plan, with enough serious consideration to detail. I therefore suggest that the Planning Committee should refuse permission for this plan.

### **Vicki Thompson**

4 Ashville Avenue' Eaglescliffe

I object to this application. The proposed buggy store and substation is a characterless design which will add nothing to the character of the development nor will it enhance the Conservation area from which it will be visible. It will also border our party wall which is one long wall shared by all those on Ashville Avenue. From the plans I believe it will be too close but no specific distances have been provided.

### **Dr A Thompson**

4 Ashville Avenue' Eaglescliffe

I object to this application because it purports to be for a buggy store/substation but is actually mainly concerned with a new access road and the contentious issue of the pavement, raised by SBC's own barrister at the Enquiry as problematical. The application is misleading and should be resubmitted as 2 separate applications. Highways must be consulted since the Avenue is a highway to which Section 154 of the Highways Act 1984 applies.

### **Trish Hewitt**

2 Ashville Avenue' Eaglescliffe

The purpose of this letter is to object to the recent request for respective planning permission to be granted to McCarthy and Stone on the development on The Avenue. The location of the substation is within 3 metres of our adjoining boundary wall and presents some safety, personal and health issues for us.

Firstly, we have four children between the ages of two years and eight years old and a structure that is in such close proximity to our property must only be considered as dangerous. Whilst I accept that the health and safety of our children is our responsibility, there are trees and a wall that is very easy to climb. Children are intrigued by different sounds, noises, vehicles and movements, all of which will be coming either from the proposed structure or from accessing the buggy store/sub station.

Secondly, as well as the obvious health and safety issues already mentioned relating to access to the store, the personal issues are in relation to our quality of life and the value of our property. There is the constant noise that will be omitted not only from the substation, but from the residents of the apartments accessing the buggy store which will be easily heard from our garden on a regular basis. I would estimate that from 42 apartments, there will be at least 15 buggies accessing the store at least twice a day resulting in more than 30 intrusions per day (one to get the buggies out and one to out the buggies back) on our otherwise quiet back garden. Secondly, we plan to move property in the near future and such a structure in its current location is likely to have a negative impact on the value of our property prospective buyers will ask questions.

Finally, there has been significant research conducted relating to childhood leukaemia and exposure to magnetic fields. The Child Protection Agency states the following on the URL below: [http://www.hpa.org.uk/hpa/news/nrpb\\_archive/response\\_statements/2001/response\\_statement\\_5\\_01.htm](http://www.hpa.org.uk/hpa/news/nrpb_archive/response_statements/2001/response_statement_5_01.htm)

*Laboratory experiments have provided no good evidence that extremely low frequency electromagnetic fields are capable of producing cancer, nor do human epidemiological studies suggest that they cause cancer in general. There is, however, some epidemiological evidence that prolonged exposure to higher levels of power frequency magnetic fields is associated with a small risk of leukaemia in children. In practice, such levels of exposure are seldom encountered by the general public in the UK.*

The research goes on to say however

*"the possibility remains that intense and prolonged exposures to magnetic fields can increase the risk of leukaemia in children."*

I am confident that in most children's every day life, their exposure to magnetic fields is low however, those of us whose boundaries back onto electrical substations that are less than 10 feet away from our back garden where our children play on a daily basis, are more likely to fall into the intense, prolonged exposure category. Unfortunately, the planning application does not outline the potential frequency of the magnetic field and as such, provides grounds for further objection.

**Eaglescliffe Preservation Action Group**  
Mrs Vicki Thompson' C/o 4 Ashville Avenue

#### **Letter 1**

I write on behalf of EPAG to express our concerns and make an objection to the above plan. We have many concerns regarding this application including the details regarding the changes to the footpath.

1. The planning conditions stated that the path had to adjoin the site. Now it seems that it actually goes quite a distance into it – surely this is a breach of this condition.
2. There is no indication of the width of the path
3. Highways have not been consulted – there is a need to ensure that sightlines are not compromised and that the width of the road is upheld.
4. There is no indication as to how the footpath will be owned or maintained.
5. Tees Archaeology have not been consulted, although there must be parts left of the remains which must still be in danger, although some have already been concreted over.
6. There has been limited consultation, yet all of the residents of the Avenue and the school should have been consulted as they have rights of access over the footpath.
7. How will the occupants cross the road safely from the point where the path suddenly stops, to get to the main entrance? Users may be slow and they may not be visible to those turning in. what about the partially sighted or those with impaired hearing, or are the needs of those people not worthy of consideration.

8. The idea of a rumble strip pavement does not seem appropriate for those with walking difficulties.
9. How will large vehicles turn in a limited turning circle within the hammerhead.
10. Where is the refuse store now mentioned?

Although the proposed claims to 'contribute well to the surrounding area' – how is this achieved. There is also no note of any landscaping plan. this plan does not include sufficient detail for a considered decision to be possible. The only possible conclusion is a refusal of this application.

## **Letter 2**

I write on behalf of EPAG to express our concerns and make an objection to the above plan. We have many concerns regarding this application including the details regarding the changes to the footpath.

1. There is insufficient information on the application on which to make a proper judgement. There is no indication of the distance to the party wall, nor the full dimensions of the building.
2. How many scooters will it take? EPAG raised the fact that scooters had not been catered for at the Enquiry, and we were then told that this building will not cater for the disabled or infirm. Why the change now? Surely if this was to be a consideration it should have been included in the original plan, to allow for full discussion and comment.
3. The site design is flawed. How will those who have mobility difficulties manage to park their scooters and then access the main building – the two entrances could not be further from each other.
4. Why have the parking spaces beside the substation/buggy store not been made all disabled in case those with mobility problems need to use the store?
5. The application form is inaccurate – there are trees within 10m of the site. The roads are not named correctly.
6. There has not been enough consideration regarding design. Those looking at it from properties at the rear and Yarm Road side will only see a brick wall.

Although the proposed claims to 'contribute well to the surrounding area' – how is this achieved? There is also no note of any landscaping plan. This should be a prestigious development on an important site bordering our Conservation Area, and we would suggest that there has been insufficient attention to the detail and the design. The only possible conclusion is a refusal of this application.

## **CPRE**

Stockton Group' C/o 26 Ashville Avenue  
We wish to object to the above application.

McCarthy & Stone are probably the most experienced Developers of Retirement homes in Britain. It seems hardly possible that they "forgot" to include a buggy store - a matter raised by the objectors at the original application - and that the electricity sub-station has had to be repositioned.

I do not necessarily agree with your comments that, as they were included on the plans submitted to the Inspector, then the Planning Permission awarded by the Appeal Judgement must stand.

Judgement was made initially by the Planning Committee to refuse the application. Reasons were given for the refusal. Since the combined building was not included on the initial plans, neighbours who will be affected were not aware that it was a possibility in this position and had no opportunity to register their objections at Site Meetings, in Writing or at the Decision Meeting. Therefore it would not be registered anywhere that it was a point of serious contention and it was certainly not mentioned as a reason for refusal. You will be aware that research has been carried out by professional authorities that raises the possibility of a higher risk of childhood leukaemia for those children exposed to high levels of magnetic fields. It is therefore a serious issue and not one that can be considered a minor amendment.



You state "it would not be appropriate to assume that consideration had not been given to such details at the time of the appeal". I contend that it would not be appropriate to assume that the Inspector specifically picked up on this issue when there was nothing in any of the original Submissions relating or objecting to it! You state, "the substation/buggy store is a small detached building" with the inference that is of little consequence. I contend that it is either required or it is not and if it is required then its position should have been included on the original application. If it is required and permission is refused, then presumably this would delay the whole project. If this is a possible outcome then it obviously is not a minor amendment and should therefore have resulted in a completely new application being made for the entire project. This would be in line with recent recommendations that no alterations should be made to plans after they have been approved.

Is it now the position that objectors in an appeal situation have to check with a fine-tooth comb that no alterations have been made to plans when submitted to an Inspector? Surely an appeal, by definition, is asking that a decision be overturned, not that an amended scheme be approved! I feel that there is an important point of principle involved here and I would appreciate therefore a reply to my comments.

In the meantime for all the above reasons and, given the proximity to the neighbours, on grounds of noise pollution, we request that you refuse this application.

### **PLANNING POLICY**

5. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans are:- *the Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP)*.

### **Stockton-on-Tees Local Plan**

6. 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.

### **Policy GP1**

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;
- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;
- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;
- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

### **SITE AND SURROUNDINGS**

7. The site is located on the north eastern corner of the junction of 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 building stands mid way along, but 2m from, the northern boundary at the rear of the new sheltered housing building. The northern boundary is formed by brick boundary walls, mature trees, hedging and panelled fencing and separates the grounds from the residential gardens to the north.

8. Immediately to the east of the building is a row of semi mature trees extending into the grounds at right angles to the northern boundary. Immediately to the west and south of the buggy store/substation are car parking spaces served by the new access into the site from The Avenue. The new sheltered housing building and a row of mature coniferous and deciduous trees set back behind a low brick wall would prevent the substation/buggy store from being seen from The Avenue to the south. The western boundary runs parallel with Yarm Road and features a band of mature trees subject to Tree Preservation Orders (TPOs).
9. The immediate surrounding area is characterised by a mix of detached and semi-detached dwellings typically of Victorian and Edwardian character. The building stands outside the remains of part of the Stockton and Darlington Railway which are located along the western part of the grounds bordering Yarm Road, under trees covered by a Tree Preservation Order. The site is located within the urban area of Eaglescliffe and is within the limits of development and is adjacent but not within the conservation area.

## **MATERIAL PLANNING CONSIDERATIONS**

10. The main considerations of this application relate to the principle of the development; the impact on the appearance and character of the locality; the impact in terms of residential amenity and; any other material considerations in the context of whether it satisfies the requirements of the Local Plan Policies and Government Guidance. Each of these issues will be examined in turn.

### **Principle of the development**

11. This current application does not bring into question the whole sheltered apartment scheme currently under construction. That development is proceeding in accordance with the approved plans and conditions. This is a separate discrete application as it is not appropriate to simply agree amendments under the previous approvals. The current full application has given the opportunity for all those most affected to be consulted and notified so that they have an opportunity to comment.
12. Contrary to the statements made by objectors it is a matter of fact that the combined substation/electric scooter recharging bay building was shown on the plans from the very first site plan submitted on 18 April 2005 at the time of validation of that application (see Appendices 1 to 5). Therefore it is not true to say that it is an amendment to the plans only added at the time of the appeals. It was therefore a part of those schemes for consideration at that time. Both the principle of the need for the building and its location was determined at that time. Neighbours who may have considered themselves affected had every opportunity to register their objections at site meetings, in writing or at the decision meeting at the time of the previous applications 05/1194/FUL and 06/0957/REV.
13. The building is shown as part of the schemes on the drawings 05/1194/FUL and 06/0957/REV and therefore was considered at the time of the Planning Appeal Inquiry. Before making a decision Planning Inspectors are expected to consider all aspects of a scheme, whether or not they are issues that have been raised by objectors or the local planning authority. The principle of this building at this location for the stated purposes has therefore been considered and agreed by the Planning Inspector.

14. The erection of the buggy store/substation without permission as built does not make it an illegal construction if approval is not obtained. A criminal offence only occurs when the requirements of an effective enforcement notice are contravened after the date on which the compliance period stated in the notice expires. However, the applicant's would have an opportunity to appeal at the time of a refusal of the planning application and after the service of any enforcement notice.
15. The building is for the purposes of support for the main use of the site as sheltered accommodation. It is only a small element within the site and was an integral part of the scheme from the outset. The substation will ensure that there is adequate control of supply to the 42 apartments and managers flat and that the demand from the recharging of electric scooters is managed. This would help prevent any interruption of supply to the surrounding properties.
16. The proposal is therefore acceptable in principle in accordance with the planning policies and government guidance.

#### **Impact on the appearance and character of the locality**

17. The plans are sufficiently detailed and clear with all the necessary information to make a proper judgement on the building and its relationship to the surrounding area neighbouring developments. The details clearly show the site layout, the distance of the building to the boundary and its design, size, scale, form & materials. The building is in almost identical location to that approved but its proportions have changed to make it a squarer floor plan.
18. The single storey buggy store/substation is of a simple design with a grey concrete tile pyramidal roof above red brick walls which have a dark weathered facing. The openings are confined to wooden doors for the electric substation and a gated opening on one side for buggy access. The rear elevation facing the neighbouring boundary has purposely been left blank to reduce any impacts.
19. The building appears as a small structure in the context of the much larger sheltered housing building currently under construction and the existing surrounding dwellings. Its position means that it is almost completely screened from view from the surrounding roads by the main building and the existing trees and hedges around the site. The building can be seen from the residential properties which have gardens to the north of the site and it appears above the vegetation, walls and fences forming the means of enclosure on the shared boundaries. The grey tiled pyramidal roof of the single storey structure is the most visible element. It can be seen through the boundary plants and trees against the backdrop of much taller trees and the main two storey sheltered accommodation building itself.
20. The Conservation Area is the other side of Yarm Road and also separated by the belt of mature trees at the western end of the site. The building has no significant visual impact on the Conservation Area due to the separation distance and its screening at the back of the site.
21. There is concern that the Design & Access Statement does not correspond with the plans. The vehicular access to the development has been constructed from The Avenue whereas it is referred to as being created from Yarm Road. There is no intention to create a further entrance into the site and none is shown on the plans. If it were that would be the subject of a separate new application. As part of the scheme approved on appeal a public footpath is to be formed along the north side of the Avenue connecting the existing footpath in Yarm road with the site. This is shown on the approved plans (see Appendices 2 and 5). Therefore this footway is not a new element only submitted under subterfuge as part of the current application for the substation/buggy store. The newly formed vehicular access to the site and the footpath yet to

be completed have both been shown on the plans for the retrospective application for the substation so that it can be seen in context of the completed development. As the proposals do not concern a new access or footpath there has been no need for wider consultation of residents of the Avenue and the school as they are not affected by the changes to the substation/buggy store.

22. The erected building is of a form, size, scale and materials suitable for its purpose and has been sited so as to have the minimum visual impact on the public and surrounding development. The small building would not impinge on the visual amenities of adjoining residential properties or the Conservation Area. The details of the structure and its impact on visual appearance and character of the area are acceptable and there are no reasons why it might conflict with Local Plan Policy GP1 or Government guidance.

### Impact in terms of residential amenity

23. As seen above in terms of the appearance the structure itself is of a design and location that would not adversely affect visual amenity. However objections have been raised regarding the impact on neighbours by reason of noise and health. Electrical substations are common features throughout the Borough located next to houses and gardens. In this case the rear elevation has purposely been designed with a blank wall so that any noise and electromagnetic fields that may issue from the building are minimised. It also has been built 2m into the site so that it is not on the boundary itself. Besides the separation distance the adjoining gardens are separated by the brick wall construction of the building itself, the brick boundary wall and the trees and other plants growing in between. The neighbouring houses themselves are a minimum of 23m from the building.
24. An Electrical Substation of this kind will cause some noise. The Environmental Health Officer has concerns regarding noise from the substation but given the low level of noise and the fact that it is completely enclosed they have no objection. Should the building give rise to any complaints about noise it is possible to address these by requiring an increase in the insulation of the structure. The environmental Health Officer has not suggested that any conditions are necessary to be attached to an approval.
25. Concerns have also been raised about low frequency (ELF) electric and magnetic fields emanating from the building. An objector has quoted from a Working Group (WG) of the International Agency for Research on Cancer (IARC) which recently reviewed health effects of static and extremely low frequency (ELF) electric and magnetic fields. The full text of the section of the report quoted from is as follows. The section highlighted in bold type was not quoted in the objection.

“Laboratory experiments have provided no good evidence that extremely low frequency electromagnetic fields are capable of producing cancer, nor do human epidemiological studies suggest that they cause cancer in general. There is, however, some epidemiological evidence that prolonged exposure to higher levels of power frequency magnetic fields is associated with a small risk of leukaemia in children. In practice, such levels of exposure are seldom encountered by the general public in the UK. **In the absence of clear evidence of a carcinogenic effect in adults, or of a plausible explanation from experiments on animals or isolated cells, the epidemiological evidence is currently not strong enough to justify a firm conclusion that such fields cause leukaemia in children. Unless, however, further research indicates that the finding is due to chance or some currently unrecognised artefact,** the possibility remains that intense and prolonged exposures to magnetic fields can increase the risk of leukaemia in children.”

26. Therefore the report clearly says that: **“the epidemiological evidence is currently not strong enough to justify a firm conclusion that such fields cause leukaemia in children”**

27. The Environmental Health Unit has been questioned about this and responded as reported above and copied below:

*“It is a similar position in relation to electromagnetic radiation where immediate access to the equipment will be confined to those accessing the building, which will offer protection to adjoining properties as well as users of the buggy store.*

*There is no proven link between emf exposure and ill health and the strength of the field will be stronger to the substation than from routinely used electrical equipment such as tv's and computers, however the sub station will have the benefit of enclosure, distance and reduced exposure time to reduce the level of risk in comparison with emf exposure in the home. So again we have no objection given that the substation is enclosed.”*

28. Therefore there is not any substantive evidence or planning grounds as to why the application should be refused permission on noise or health grounds and the proposal conforms with Local Plan Policy GP1.

#### **Other matters**

29. The issue of archaeology has been raised and whether the area where the Darlington & Stockton Railway Line remains lie has been affected. The substation/buggy store building is outside the alignment of the earthworks of the Stockton & Darlington Railway of 1825 and does not therefore affect it. The application to approve the retrospective erection of the substation/buggy store building does not include any changes to the access or parking arrangements approved for the scheme under construction.

30. Objectors have claimed that the course of the railway has been concreted over and link this with the reference to references in the Design and Access Statement about the new access and footpath. This is a separate matter to the consideration of this application. In reality some kerb edging surrounding the grasscrete car parking areas has been formed. Grasscrete is a honey comb structure designed to take the weight of cars. The contractors are aware that they are not to park construction wagons or plant and machinery in this area. The grasscrete overlays the archaeological remains so that they area not disturbed. This is the method of forming the car parking area agreed with the Archaeologists and the developer is not in breach of any development control by doing this.

31. The building does not directly affect any Protected Wildlife Species and is in the position as approved on appeal. Mitigation has been included in the main scheme for bats and their flight paths.

32. A negative impact on the value of property is not a planning consideration.

33. It is not a planning consideration as to how many scooters the building will take or the level of mobility of the occupants. The main building is for sheltered accommodation which gives residents support but it is not a nursing home for those with so much in the way of mobility difficulties that they cannot walk from the buggy store to the main building.

34. The issues concerning the Party Wall Act are dealt with under this separate legislation and is not a planning matter in any case.

## **CONCLUSION**

A building for these purposes was shown on the original and subsequently amended schemes submitted in the 2005 and 2006 applications for the sheltered apartments and has been approved on appeal. The changes in the position, size and form of the erected building are relatively minor. The impacts on residential amenity, access, appearance and character of the area, trees, archaeology and ecology have previously been considered under the previous applications and found to be acceptable by the Planning Inspector. The application is therefore recommended for retrospective approval.

Financial Implications:

As report

Environmental Implications:

As report

Human Rights Implications:

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

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report.

Background Papers:

Adopted Stockton-on-Tees Local Plan (June 1997)

**Corporate Director of Development and Neighbourhood Services**

**Contact Officer Mr Andrew Bishop Telephone No 01642 527310**

## **WARD AND WARD COUNCILLORS**

**Ward** Eaglescliffe  
**Ward Councillor** Councillor A L Lewis

**Ward** Eaglescliffe  
**Ward Councillor** Councillor J. A. Fletcher

**Ward** Eaglescliffe  
**Ward Councillor** Councillor Mrs M. Rigg