

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

2 MARCH 2011

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

10/3029/FUL

Wilkinsons Landscapes Limited, East Brocks Farm, Eaglescliffe

Resubmission of application for erection of new garden centre with ancillary cafe, external sales area, service yard together with car park and turning areas, landscaping, mounding and water reservoir, separate office building and widened access road from A67

Expiry Date 3 March 2011

SUMMARY

It has been considered necessary to recommend a further reason for refusal and the replies to outstanding consultations that have been received are also reported to members.

Highway Safety

As previously reported the Head of Technical Services is unable to support the application on highway grounds. The Head of Technical Services notes that the proposals would generate significant levels of additional traffic. Changes are therefore required to the A67 for road widening in the A67 and a ghost island to protect vehicles turning right into the access road. Without the necessary improvements to the A67 the development could not be supported in highway terms. As it stands the development would be unacceptable due to its adverse impacts on highway safety.

The application details do not include any proposals or drawings showing the necessary mitigation and changes to the A67. The application is supported by a Transport Assessment and Planning Statement that make it clear that the applicant considers that the existing access is adequate without change and does not accept that changes are required to the A67. This is also stated in further correspondence from the agent which is attached to this Update Report and was submitted in response to the Head of Technical Services advice.

Despite pre-application advice the applicant's Highway Consultant has never entered into any discussions about providing a ghost right turn and no drawings in support of this access arrangement have been produced. No amendments have been made to the Transport Assessment to support a ghost right turn access. No estimates for the work have been undertaken and the amount of widening of the A67 is unknown. As a result, it may not be viable for the development to provide the necessary highway mitigation and if approved there is a high risk that an appropriate access cannot be provided for the development.

The applicant would be agreeable to the imposition of a Grampian condition so that an access to the site would be formed from a new link road to the SKYLINK International Business site at the Durham Tees Valley Airport. The implementation of the airport SKYLINK road development approved under reference No.08/0728/FUL has been significantly delayed. The future of this project is in third party hands and outside the control of the applicant. This approved link road and roundabout junction onto the A67 cannot be relied upon as providing a suitable alternative for the foreseeable future. The applicant has requested that an approval be granted with an extended implementation period of 5 years from decision. However, there is no clear prospect that the SKYLINK road would be built within this timescale. There would be every possibility that the applicants would have an un-implementable development.

It is therefore recommended that the application be refused with an additional reason on highway safety grounds as set as Reason 3 below:

03. *In the opinion of the Local Planning Authority the proposal is contrary to the interests of highway safety in that it would lead to the generation of traffic using an existing access onto a principal highway A67 where there would be hazardous conditions to road users without road widening and the provision of right hand turn protection or the realistic opportunity for an alternative access to be formed so as to avoid traffic generated by the proposal from using an unimproved direct access onto the A67 contrary to Core Strategy policy CS2 and Local Plan Alteration No.1 Saved policy S18 and Planning Policy Statement 4: Planning for Sustainable Economic Growth: 29th Dec 2009.*

Health and Safety

As set out in the main report the application site falls within the outer Health and Safety zone of the Teesside to Saltend Ethylene Pipeline and within the middle zone of Elton feeder No.6 gas pipeline.

The Teesside to Saltend Ethylene Pipeline is operated by Sabic UK and their response to consultation is set out below. They do not wish to make any observations on the application other than to indicate that at the top corner of site plan the development falls at 140 metres from the Teesside to Saltend Ethylene Pipeline (TSEP) and falls within the HSE inner planning zone. The edge of the main building area (at 290M from TSEP) falls within the outside of the outer zone for PADHI. The standing advice from the HSE is that it does not advise, on safety grounds, against the granting of planning permission in this case.

The other is a high pressure national gas transmission major accident pipeline that crosses the eastern end of the site. National Grid has responded to consultation and they state that "The works proposed are likely, unless controlled, to adversely impact the safety and integrity of National Grid apparatus." This assessment is purely related to the potential for the proposed physical works to adversely impact on the gas pipeline. It does not imply in anyway the acceptability of the proposed development from a planning perspective. It does not mean that they object to the proposals but If the developers proceed with the development then they would be required to contact National Grid so that they can arrange for technical advice and guidance to be provided on the construction methods.

Northern Gas Networks has no objections to these proposals, but notes that there may be apparatus in the area that may be at risk during construction works. Should the planning application be approved, then they require the promoter of these works to contact them to discuss their requirements in detail. Should diversionary works be required these would be at the developer's expense.

Durham Tees Valley Airport

Durham Tees Valley Airport has stated that the proposal is in close proximity to the approach path for runway 23. They have concerns about the water reservoir and number of trees which could potentially attract birds which are obviously seen as a hazard to their operations. If the application were to be approved they would wish to see a sustainable bird management plan put in place. They are also concerned that the plans show roof lighting that could let light show through the translucent panels which could be a distraction to pilots on their final approach to the airport. They would wish to have assurances that the lighting would not be above the horizontal. This could be dealt with by conditions should the application be approved. If these matters are addressed then DTVA would have no objection to the proposal.

RECOMMENDATION

Planning application 10/3029/FUL be Refused for the following reasons

01. ***The proposed development is considered to be out of scale and inappropriate for the rural location for a destination retail garden centre with ancillary café that has unknown capacity for further retail when it has not been satisfactorily demonstrated that there are not sequential preferable sites that are not in an out-of-town location within the identified catchment area which includes main settlements. The impact assessment does not satisfactorily assess the trade draw from existing and planned town and retail centres and the potential impact on their vitality and viability and there is no justifiable need or wider economic benefit that would mean that the development is not contrary to Core Strategy Policies 1 (CS1) - The Spatial Strategy, Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel, Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change Core Strategy Policy 4 (CS4) - Economic Regeneration, Core Strategy Policy 5 (CS5) - Town Centres Local Plan Saved Policies, Local Plan Saved Policy EN13 and Alteration No.1 Saved Policies S2 and Policy S18 and Government advice in Local Plan Policy EN13, saved policy S2 of Local Plan Alteration Number 1 (2006, Planning Policy Statement 4: Planning for Sustainable Economic Growth: 29th Dec 2009, Planning Policy Statement 7: Sustainable Development in Rural Areas: 3rd August 2004 and Planning Policy Statement 7: Sustainable Development in Rural Areas August 2004.***
02. ***The proposed development is not supported by information on the impact it would have on protected wildlife species. The lack of survey information to adequately demonstrate whether or not the development would have an adverse effect on legally protected species makes the proposed development contrary to Core Strategy policy CS10 and Government advice in PPS9: Biodiversity and Geological Conservation August 2005.***
03. ***In the opinion of the Local Planning Authority the proposal is contrary to the interests of highway safety in that it would lead to the generation of traffic using an existing access onto a principal highway A67 where there would be hazardous conditions to road users without road widening and the provision of right hand turn protection or the realistic opportunity for an alternative access to be formed so as to avoid traffic generated by the proposal from using an unimproved direct access onto the A67 contrary to Core Strategy policy CS2 and Local Plan Alteration No.1 Saved policy S18 and Planning Policy Statement 4: Planning for Sustainable Economic Growth: 29th Dec 2009.***

FURTHER CONSULTATION RESPONSES

1. National Grid

A standard assessment has been carried out with respect to our operational gas and electricity apparatus.

The works proposed are likely, unless controlled, to adversely impact the safety and integrity of National Grid apparatus. If you decide to proceed with these works, please contact us again so that we may arrange for technical advice and guidance to be provided.

Please note this assessment is purely related to the potential for the proposed physical works to adversely impact National Grid's assets. It does not imply in any way the acceptability of the proposed development from a planning perspective.

This location falls outside the National Grid Gas Distribution Network area. This means that another Gas Distribution company operates in this area. See the assessment below for full details. Apparatus owned by other operators may be present in this area. It is your responsibility to make contact with these operators.

Assessment

Due to the nature of the planning application and the presence of National Grid apparatus within the above mentioned site, the contractor should contact National Grid before any physical works are carried out to ensure our apparatus is not affected by any of your works.

High Pressure National Gas Transmission Major Accident Hazard Pipeline/Installation

There is a High Pressure National Transmission gas major accident hazard pipeline/installation in the vicinity of your enquiry which may be affected by your activities. Prior to work commencing within the easement of a National High Pressure gas pipeline written permission must be obtained from National Grid. A minimum notice period of seven working days is required before commencement of work.

2. Northern Gas Networks

Northern Gas Networks has no objections to these proposals, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversionary works be required these will be fully chargeable.

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of precautions for your guidance. This plan shows only those mains owned by Northern Gas Networks in its role as a Licensed Gas Transporter (GT). Privately owned networks and gas mains owned by other GT's may also be present in this area. Where Northern Gas Networks knows these they will be represented on the plans as a shaded area and/or a series of x's. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty, the accuracy thereof cannot be guaranteed. Service pipes, valves, siphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Northern Gas Networks, its agents or

servants for any error or omission. The information included on the enclosed plan should not be referred to beyond a period of 28 days from the date of issue.

3. Sabic UK

Please note that SABIC would not wish to make any observations in this matter, other than to indicate that at the top corner of site plan the development falls at 140 metres from the Teesside to Saltend Ethylene Pipeline (TSEP) and falls within the inner planning zone for PADHI (see HSE document entitled 'PADHI – HSE's Land Use Planning Methodology'). The edge of the main building area (at 290M from TSEP) falls within the outside of the outer zone for PADHI.

4. Durham Tees Valley Airport

Unfortunately I am unable to login to your website to view the plan. Assuming it to be a straight re-submission with no changes to the original plan, please see below.

We have looked at the proposal and due to the close proximity to our approach path for runway 23, have the following concerns:

- There is in the plan a water reservoir, this potentially could attract birds which are obviously seen as a hazard to our operations.
- There is also a number of trees that are to be planted, again these would be potentially an attraction for birds.

For these two issues we would like to see a sustainable bird management plan put in place.

- According to the plans there is to be roof lighting that could show through the translucent panels. It may be that they could cause a distraction to pilots on their final approach to the airport. It may be that the 'escaping light would not be enough to affect pilots. We would like to see some confirmation of this, or assurances that the lighting would not be above the horizontal.

If these matters can be addressed to our satisfaction then DTVA will have no objection to the proposal.

CONCLUSION

The recommendation remains as previously set out in the main report with the exception of the update to include an additional Reason 3 for refusal on highway safety grounds.

The Head of Technical Services is unable to support the application on highway grounds as the proposals would generate significant levels of additional traffic and changes are required for road widening in the A67 and a ghost island to protect vehicles turning right into the access road. The application details do not include any proposals or drawings showing the necessary mitigation and changes to the A67. Without the necessary improvements to the A67 the development could not be supported in highway terms. As it stands the development would be unacceptable due to its adverse impacts on highway safety.

The application site falls within the outer Health and Safety zone of the Teesside to Saltend Ethylene Pipeline and within the middle zone of Elton feeder No.6 gas pipeline. Responses to consultation have been received from Sabic UK, National Grid and Northern Gas Networks.

Sabic UK have no objections and the standing advice from the HSE is that it does not advise, on safety grounds, against the granting of planning permission in this case.

Northern Gas Networks has no objections to these proposals, but should the planning application be approved, then they require the promoter of these works to contact them to discuss their requirements in detail. Should diversionary works be required these would be at the developer's expense.

Durham Tees Valley Airport has concerns about the water reservoir and number of trees which could potentially attract birds and the potential impact of lighting. If the application is to be approved they would wish to see a sustainable bird management plan put in place and controls over lighting. These matters could be dealt with by conditions should the application be approved. If these matters are addressed then DTVA would have no objection to the proposal.

The application is recommended for refusal with the additional Reason 3 for refusal on highway safety grounds.

Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Andrew Bishop Telephone No 01642 527310

IMPLICATIONS

Financial Implications: None

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

The Town and Country Planning Act 1990.

Planning Policy Statement 1: Delivering Sustainable Development: 31st Jan 2005

Planning Policy Statement 4: Planning for Sustainable Economic Growth: 29th Dec 2009

Planning Policy Statement 7: Sustainable Development in Rural Areas: 3rd August 2004

Planning Policy Statement 9: Biodiversity and Geological Conservation

Planning Policy Guidance 13: Transport: January 2011

ODPM Circular 06/2005

Planning for Biodiversity and Geological Conservation: A Guide to Good Practice

Stockton and Middlesbrough (2008)

Stockton Borough Retail Study (2010)

Planning Application Files: 09/2812/FUL, 07/1751/FUL, 06/1965/FUL, 05/0957/ARC, 03/0195/P, 97/0010/P, 94/0115/P, 94/0093/P and 89/1329/P.

WARD AND WARD COUNCILLORS

Ward	Western Parishes
Ward Councillor	Councillor F. G. Salt,