

**DELEGATED**

**AGENDA NO**

**PLANNING COMMITTEE**

**DATE 29 JUNE 2011**

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

**11/1280/LAF**

**Billingham House, Belasis Avenue, Billingham**

**Demolition of Billingham House and associated car parking structure**

**Expiry Date: 19 July 2011**

#### **SUMMARY**

Planning permission is sought for the demolition of Billingham House and associated car parking structure situated at Belasis Avenue, Billingham.

The legislation regarding the requirement for planning permission for the demolition of buildings has effectively changed following a Court of Appeal ruling which means that the demolition of all buildings will now constitute "development" and therefore require planning permission or prior approval for demolition. Previously only the demolition of residential dwellings fell within the definition of "development". Now any factory, office, school, hospital or other commercial building will also require planning permission, either express permission or deemed permission. Furthermore the ruling has clarified that demolition which may have a significant impact on the environment might also require an Environmental Impact Assessment (EIA) in its own right.

A request for a screening opinion was made by the Council to ascertain whether an EIA is required for the proposed demolition of Billingham House. Having carried out a screening assessment in accordance with the EIA Regulations the development is not considered EIA development.

The existing building and its curtilage has been disused for a number of years and has suffered vandalism and arson attacks. As a result the building and site presents a neglected and dilapidated appearance and condition seriously detrimental to the amenities of the area.

The application is accompanied by a method statement for the removal and disposal of asbestos containing materials from within the building and a demolition method statement. A Bat survey report has also been submitted in support of the application.

It is considered that the principle of demolition is acceptable in this location with no sound planning reasons for the building to be retained. A method statement has been prepared for the removal and disposal of asbestos safely and without significant impact on the environment. The method statement for the demolition of the building included the treatment of waste, whether by disposal, recycling, crushing or backfilling the basement of the building. The method statement includes dust suppression methods. These method statements indicate that the demolition would not have a significant effect on the environment. The demolition method statement makes it clear that no waste will be left on site at completion of the demolition. It is considered that the demolition would

not have any undue impact on ecological habitat and flooding. The associated highway activities are acceptable to the Head of Technical Services and it does not adversely impact on neighbouring properties and businesses and will comply with Health and Safety Executive requirements and it is considered that the development can be supported and the application is therefore recommended for approval subject to appropriate planning conditions to secure necessary controls over the development.

## **RECOMMENDATION**

**Planning application 11/1280/LAF be Approved subject to the following conditions**

**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.**

<b>Plan Reference Number</b>	<b>Date on Plan</b>
<b>01</b>	<b>24 May 2011</b>

**Reason: To define the consent.**

**02. All demolition operations including delivery of materials on site shall be restricted to 8.00 a.m. - 6.00 p.m. on weekdays, 9.00 a.m. - 1.00 p.m. on a Saturday and no Sunday or Bank Holiday working.**

**Reason: In the interests of the amenities of the locality.**

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

**Reason: To ensure the proper restoration of the site and to accord with guidance contained within Stockton on Tees Core Strategy Policy 10 (CS10) - Environmental protection and enhancement**

**04. All works shall be undertaken in accordance with the Method Statement for the removal and disposal of asbestos containing materials, unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: To enable the Local Planning Authority to exercise reasonable and proper control over the associated with the development hereby approved.**

**05. Prior to commencement of demolition on site a Site Waste Management Plan including measures for the recycling of the waste shall be submitted and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the demolition period.**

**Reason: To enable the Local Planning Authority to exercise reasonable and proper control over the associated with the development hereby approved.**

**06. All works shall be undertaken in accordance with the Method Statement for the demolition and site clearance of the former Billingham House Office Building, unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: To enable the Local Planning Authority to exercise reasonable and proper control over the associated with the development hereby approved.**

## **INFORMATIVES**

The proposed scheme has been considered against the policies and documents identified below. It is considered that the scheme accords with these documents as the proposal adequately provides in respect to its impacts on the surroundings does not lead to a loss of amenity for the nearest residents, would not adversely affect species especially protected by law or impact on access and highway safety. There are no material planning considerations, which indicate that a decision should be otherwise.

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

Core Strategy Policy 4 (CS4) - Economic Regeneration

Core Strategy Policy 10 (CS10) - Environmental Protection and Enhancement

Planning Policy Statement 1: Delivering sustainable development

Planning Policy Statement 4 : Planning for Sustainable Economic Growth

Planning Policy Statement 9: Biodiversity and Geological conservation

Planning Policy Guidance 13: Transport

Planning Policy Statement 23: Planning and Pollution Control

Planning Policy Guidance 24: Planning and Noise

Planning Policy Statement 25: Development and Flood Risk

Bats and their roosts are protected under the Wildlife and Countryside Act 1981 (as amended), and the Conservation of Habitats and Species Regulations 2010. It is an offence to deliberately capture, kill or disturb bats or to recklessly damage or destroy their breeding sites or resting places. The applicant should remind the building contractors to be vigilant for bats during the demolition work. If at any time bats are found or suspected then, as a legal requirement, work must cease in that area and further advice must be sought from Natural England.

## **BACKGROUND**

1. Billingham House became vacant in 1995, and was purchased by Bizzy B Management Limited (Bizzy B) in 2000 with a view to redevelopment.

2. Members will be aware of the Council's decision to demolish Billingham House following the owner's failure to comply with a notice requiring them to remedy the ruinous and dilapidated condition of the building. That decision is the subject of a Judicial Review in the High Court which is ongoing. The owner challenges the reasonableness of the Council's decision. The Judicial Review has recently been amended to incorporate a challenge to a Screening Opinion adopted by the local planning authority in relation to the proposed demolition of the building, which determined that the demolition would not have a significant impact on the environment and is therefore not EIA Development. This means that the planning application does not need to be accompanied by an Environmental Statement. The Judicial Review is not a material planning consideration and should not be taken into account in determining the planning application.

3. Python Properties have formally submitted a petition to the Council containing 4059 valid signatures supporting (1) new office space (2) the potential for 1000 new jobs (3) a community heritage centre and (4) the regeneration of Billingham House. Python Properties have submitted

the petition to call on the Council to allow Python Properties on site to complete the regeneration of Billingham House. The petition will be debated at full Council on 29 June.

4. Another petition was submitted to the Council from Billingham Town Council containing 1016 signatures supporting the demolition of Billingham House. These petitions have not been submitted in response to the planning application and are not therefore to be considered to be a representation in that respect.”

### **Planning History**

5. The site has been subject to a number of planning applications:-

\* 6/00054/REF - Residential development of 128 no. dwelling houses together with associated car parking, means of access and landscaping (demolition of Billingham House and associated structures) withdrawn 16th January 2007

\* 00/1688/P – Outline application for the erection of 5 no. two storey office units including partial demolition of Billingham House to retain 30,000 sq ft of floorspace. Approved 29th April 2002

\* 97/0071/P – Change of use from offices to call centre. Approved 12th August 1998

\*05/1186/RNW - Renewal of outline consent for the erection of 5 no. two storey office units including partial demolition of Billingham House to retain 30,000 sq ft of floorspace approved 29th June 2005

\*05/3365/FUL - Residential development of 128 no. dwelling houses together with associated car parking, means of access and landscaping (demolition of Billingham House and associated structures). Refused 6th February 2006

\*10/2862/LA - Erection of 2.4m high perimeter fence with 1 no. gated access. Approved 22nd December 2010.

\*11/1032/SCO - Screening Opinion request for proposed demolition of Billingham House EIA not required 9th May 2011.

### **PROPOSAL**

6. The applicant proposes the demolition and site clearance works at Billingham House. The demolition method statement states the works involve ‘standard’ demolition techniques, risk assessments and safe working procedures.

7. Billingham House is located on the edge of a residential area, also having a school, pharmaceutical process plant and laboratories, together with other commercial premises and a sports ground as neighbours. The site forms a triangular area surrounded by public roads (see Appendix 1 – Site location plan).

8. The building is of reinforced concrete construction; laid out over eight main storeys with a penthouse level and upper level plant rooms. The building has a basement beneath the whole footprint.

9. The building has been the subject of previous clearance and asbestos removal works, and as such, most of the soft finishes within the building have been removed, along with the bulk asbestos. The stripped back, bare concrete and masonry structure remains, the majority of which is contaminated with asbestos debris. The removal of asbestos contamination is dealt with in the accompanying asbestos removal method statement.

10. The asbestos will be removed in a safe and expeditious manner both within and without the former office building. All arising asbestos contaminated material will be disposed at a licensed landfill site, under pre-notification to the Environmental Protection Agency. The asbestos is to be removed to ensure the building may be demolished to grade, and regard has been given to: -  
Control of Asbestos Regulations 2006 and supporting guidance  
Special waste Regulations 2005  
Control of Asbestos in Non Domestic Premises Regulations 2005  
Environment Protection (Duty of Care) Regulations.

11. The method statement sets out in detail working practices covering personnel protective equipment; hazards and risks, security; warning notices; access; monitoring and waste disposal.

12. The demolition method statement states that all asbestos will be removed prior to commencement of demolition works. The statement sets out comprehensive operational controls and dust control measures. It is proposed that the building will be mechanically demolished from its upper extends down to and including the basement internal structures, using hydraulic excavators fitted with appropriate specialist booms and demolition attachments.

13. Generally each floor level will be progressively reduced from around the periphery, allowing the core section of the structure to remain, before the core sections are reduced to each floor level.

14. At all times during the demolition works the structures and arisings will be sprayed using fine mist water sprays to minimise the generation of dusts.

15. The carport will be demolished from the western end to the east ensuring the elevated slab is removed from each bay before moving on to the next section.

16. The initial demolition will involve an excavator rigged on site to carry a super-high reach mast capable of reaching the uppermost extents of the structure and beyond. This plant will be used to progressively demolish the uppermost plant rooms, penthouse level and top floor, using concrete jaws to break out small sections of the building at a time, gradually working from the southern end of the building to the northern extent. The machine will be located on the hard standing to the southern corner of the building.

17. Each floor level will have its periphery demolished with the structural core sections remaining until the full extent of that floor has been demolished. Only then, to preserve the structural rigidity of the building, will the then projecting core sections be demolished.

18. During the demolition of the building secondary excavators will be deployed to clear arisings from around the perimeter, removing these from the area immediately adjacent to the building, loading concrete sections into site dumpers, for transporting to the on-site processing area.

19. Once the basement floor is cleared of debris, the basement floor will be punctured, using excavator mounted hydraulic hammers, at specified intervals to allow for the percolation of any future rain/groundwater.

20. A dedicated material processing area will be established to the northern flank of the site to process and sort the reinforced concrete to provide materials for recycling. Once crushed the concrete fill material will be used to backfill the basement to bring levels up to match the adjacent ground levels. Any surplus materials will be loaded into tippers and transported off site for recycling.

21. Once works are completed all areas disturbed by the works will be cleared of debris. All voids existing on the site will be filled and the site left in a clean and tidy condition.

22. The period for demolition works is anticipated to last 16 weeks.

## **CONSULTATIONS**

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

### Head of Technical Services

#### General Summary

Technical Services has no objection to this application subject to the comments below.

#### Highways Comments

As part of the tender process for the demolition, appropriate HGV routing has been identified and the existing site access will be utilised. This is acceptable.

The demolition works will be strictly controlled by Health and Safety legislation, including mitigation for any effects the development may have on users of the adjacent highway; therefore, there is no objection to this application.

#### Landscape & Visual Comments

No comments.

### Environmental Health Unit (Summary)

Have no objection in principle to the development, however, I do have some concerns and would recommend the conditions covering demolition operation hours and unexpected contamination be imposed on the development should it be approved.

### Natural England

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

From the information provided with this application, it does not appear to fall within the scope of the consultations that Natural England would routinely comment on. The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process.

However, we would expect the LPA to assess and consider the possible impacts resulting from this proposal on the following when determining this application:

#### Protected species

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application. The Government has provided advice<sup>1</sup> on BAP and protected species and their consideration in the planning system.

The following link to some guidance Natural England Standing Advice on our website has been produced to help the authority better understand the impact of this particular development on protected or BAP species should they be identified as an issue at this site and whether following receipt of survey information, the authority should undertake further consultation with Natural England.

#### Local wildlife sites

If the proposal site is on or adjacent to a local wildlife site, e.g. Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient

information to fully understand the impact of the proposal on the local wildlife site before it determines the application.

#### Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 14 of PPS9. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

#### The Environment Agency

The Environment Agency has assessed the application as having a low environmental risk, and we do not therefore have any comments to make in relation to the proposal.

#### Development and Regeneration

Fully supports the application to undertake the demolition of Billingham House. The building has been in a derelict condition for numerous years now despite attempts to work with the owner and developers to instigate a workable proposal to redevelop it for a suitable use.

The demolition of the unsightly and potentially dangerous building will remove the negative effect on the amenity of the local area for residents and local businesses alike.

Demolition will also provide a cleared site with the potential for future development in line with the sites current employment use.

The demolition of Billingham House is in line with the earlier decision taken by Stockton Council's Cabinet to demolish the structure and takes account of regular comments received from local residents and businesses.

### **PUBLICITY**

24. Neighbours were notified and any comments received are below: -

#### Mr B Conway, 156 Weardale Crescent, Billingham

The time now is to demolish Billingham House. I have lived looking at it for 25 years not in use. How we have not had more serious accidents we are lucky. I know Python properties came and asked what we should do. I know this estate wants it down. So they went further into Billingham to get their backing, but these people are not looking at it daily. I see what is happening and what could. I have phoned SBC and the police then watched kids on the roof. Yes Python Properties might give it a facelift but will never fill it as with other offices. Get it down now, let Billingham move on it's well overdue.

#### Bizzy B Management Ltd (freeholders of the site)

The application has been made because the demolition of Billingham House constitutes development. As a matter of law, the application has to be determined in accordance with section 38(6) of the 2004 Act which requires in turn that it is determined in accordance with the development plan unless material

considerations indicate otherwise.

The need for permission results from an evolutionary change to the development control system with the consequence that the merits of demolition now fall to be considered in a way that has not arisen previously because planning applications were not required.

The applicant has not advanced any development plan policy justification for the demolition proposed in the application. Nor have the full implications of demolition been assessed against the clear priority in Government policy and development plan policy to promote sustainable economic growth and jobs as recently confirmed in the ministerial statement by the Rt Hon Greg Clark MP on 23<sup>rd</sup> March 2011.

The fact that the application is not supported by any assessment of its merits against development plan policy suggests that it has been assumed, quite wrongly, that there is no need to do so. There has, quite simply, been no attempt to explain whether (and if so, how) the applicant considers that the application conforms with the development plan, or whether (and if so, why) the applicant considers that there are material planning considerations that would outweigh any breach of the development plan. The application cannot properly be determined until that information is provided. The application would also appear to be deficient in a number of other respects. There is no Design and Access Statement despite the fact that the GPDO requires one to be submitted in support of any application to undertake building operations.

It is also clear that there is a very high likelihood of the site being occupied by protected species, especially bats and, as confirmed by the representations from English Nature, the Authority should therefore request survey information from the applicant before determining the application. If this is not done permission should be refused on the basis, inter alia, that there is a likelihood of protected habitats being present and no information to prove otherwise.

For the same reason the Authority must acknowledge that the likelihood of protected habitats being present on the site and the absence of any survey information to prove otherwise the application should be refused.

The application should also be supported by an Environmental Impact Assessment.

Notwithstanding these procedural deficiencies for the reasons set out above it is necessary to assess the application against development plan policy and especially two fundamental objectives of the planning system: the need to maximise opportunities for the provision of cost effect employment space to encourage economic growth and, the need to avoid unnecessary carbon emissions by working with existing buildings and promoting their re-use wherever possible.

We set out below how these objectives are reflected within the Local Development Framework Core Strategy and show how demolition would not be in accordance with those objectives and policies.

In undertaking this assessment it is important to note that this application proposes only demolition. It does not propose redevelopment or regeneration, just the destruction of the building and its removal from the site.

The decision is not therefore a judgement between two alternative forms of development but an assessment of whether or not the demolition of the building is in accordance with the development plan. The application should however take into account the value of the extant building as a resource for regeneration.

Objectives 1 and 10 of the Core Strategy seek to achieve sustainable communities and to ensure better use of resources, particularly the re-use of previously developed land. These principles are then reflected in Policy CS 3. At para 8.4 the Core Strategy recommends the advice in 'Building-in Sustainability: A guide to sustainable construction and development in the North East' published by Sustaine. The Core Strategy says that the burden lies with the developer, which in this case is the Borough Council, to show compliance with the policy principles for sustainability or to show why it is



unreasonable to do so.

It recommends that this is covered in a Design & Access Statement but as noted above no Statement has been submitted, despite this being a legal requirement.

'Building-in Sustainability' clearly establishes a hierarchy and decision making sequence for sustainable development which is highly relevant to the determination of this application.

The first question (on page 8) is '*Can an existing building be used and refurbished?*' This is followed on page 9 by the first of the '10 Commandments' which is to: -

Think About Reusing Buildings and Land'.

The case for the retention of Billingham House is clearly and succinctly set out on page 10 as follows:-

"Many factors will play their part in deciding which way to go. From an environmental point of view, the refurbishment or re-use of a building is generally better than demolition, because the environmental costs of energy, water and materials for refurbishment/re-use are less. There is less traffic too, and less noise and dust pollution, the time for refurbishment or re-use is generally quicker than for demolition and rebuilding with consequent financial benefits. Only when a building has deteriorated to a point where it cannot be saved and no further use can be envisaged, should demolition be considered."

It is very clear that the Borough's own policy with regard to sustainable development is to work with existing buildings wherever possible. The LDF advice is that applicants need to consider refurbishment as an essential first step and if this is not possible applicants must explain why in a Design and Access Statement. In this case the Council has simply ignored its own policy.

As Local Planning Authority the Borough Council must ask for the case to be made as it would any other applicant and when it comes to assessing the merits of the application against the Core Strategy Policy CS3 it must recognise the fact that there is a prima facie case that refurbishing the building for re-use would be in accordance with development plan policy whereas demolishing the building so as to let the site lie unused would be completely contrary to the development plan.

We calculate that the structure of this building contains approximately 243 tonnes of embedded CO<sub>2</sub> which results from the concrete manufacturing process. If the building is re-used then those carbon emissions are not 'wasted' and the building life is extended.

Demolition of the building structure clearly prevents the more sustainable re-use / re-generation option from being achieved and ensures that the replacement of any employment space comes with the environmental cost of wasting the previous carbon emissions and any new emissions from the new structure.

As set out above, the unambiguous advice in 'Building-in Sustainability' is that re-use should be investigated before any other proposals are considered. In this case the Borough is already aware that Billingham House represents an opportunity to create affordable workspace for which there is an acknowledge need in the Borough. It is also aware that there is developer ready to undertake the refurbishment.

Demolition of the building would prevent refurbishment from being undertaken and a decision to approve this application would therefore be a decision not to refurbish it. Clearly this is not in accordance with the development plan and the application should be refused for this reason.

The application is also contrary to development plan policy on economic regeneration and development for similar reasons i.e. that it would prevent a proven alternative of refurbishment from going ahead.

Core Strategy objective 2 seeks to establish a more entrepreneurial culture within the Borough and Billingham House represents an opportunity to provide cost effective business space for start up and growing local companies which require flexible and affordable workspace in a form for which there is a proven demand and for which investment is known to be available.

Affordable flexible workspaces are rarely provided in new build developments because the economics of new build development work against the need for low cost space. Billingham House is ideal for this purpose as its multi-storey form provides an opportunity to create a high density cluster of businesses

which would foster synergies between companies and the entrepreneurial culture that Objective 2 seeks to foster.

Wilful demolition of a building that the Borough knows to be capable of re-use as low cost workspace would therefore be contrary to Objective 2.

Similarly as the refurbishment of Billingham House represents an opportunity to add to the diversity of employment space in the Borough its demolition would not advance the objective of increasing employment opportunities as advocated by Objective 3.

A refurbished Billingham House can provide a high job density due to its multi-storey character. This is a form of building which would not be re-provided on the site today because it would not be possible to fund such a large multi-storey building on a speculative basis. The demolition of the building would not therefore assist the achievement of Objective 5 which seeks to provide good accessibility to places of work. Demolition of the building would result in lower employment densities and would not secure this objective.

Policy CS 4 (7) says that the Borough will protect employment sites which are viable and attractive to investment from pressure for redevelopment for alternative uses. At para 9.8 the Core Strategy says the Borough '*recognises the importance of retaining existing land and premises, and the value these add to the local economy*'.

The Borough knows that there is a sound case for the refurbishment of Billingham House which it has advocated itself. Demolition of the building cannot therefore be in accordance with Policy CS4 (7) as it manifestly does not protect the premises.

In this instance the loss of the building is not promoted in order to allow for an alternative use but simply to remove the building to leave the land unused. A proposal for regeneration is being prevented from going ahead and a useful building demolished in order for the land to be left unused for the foreseeable future.

This does not accord with the commitment in Policy CS 4 to protect existing premises from unnecessary and unjustified loss.

### Conclusions

The application must be refused planning permission for the following reasons.

The application is incomplete because it does not include; a reasoned planning justification in regard to development plan or other material considerations, a survey to determine whether the site contains protected species as recommended by English Nature, a Design and Access Statement as required by the GDPO or an Environmental Statement.

The authority is promoting this application to destroy a building it does not own whilst also knowing that there is a clear prospect of refurbishment and re-use. The Authority's own guidance to applicants is that refurbishment and re-use should be explored as the first and most preferable option and demolition of the building is contrary to National planning policy and contrary to LDF Core Strategy Objectives 1 and 10 and Policy CS 3 which seek to ensure a reduction in carbon emissions and a sustainable approach to new employment space.

The policy preference for re-use of buildings is clear and as the application is without any reasoned explanation as to why it cannot be refurbished planning permission must be refused as demolition in these circumstances would be contrary to development plan policy.

The application is also contrary to LDF Core Policy objectives 2, 3 and 5 and Policy CS 4 because it would prevent the provision of affordable workplaces and the prospect of sustainable economic growth. The cost advantages of refurbishment arise because of the cost saving value of the existing structure and the density of floorspace on the site and these will be lost completely if the building is demolished.

Whilst the building is currently stripped back to the frame this condition is only temporary as refurbishment is known to be a realistic proposition and this would restore the appearance to an

acceptable condition. Any visual harm associated with the current appearance is therefore short term and is very heavily outweighed by the economic and environmental benefits of refurbishment.

## **PLANNING POLICY**

25. 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 Plan is the Regional Spatial Strategy, Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP)

### **Ministerial Statement from Greg Clark**

“When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore:

- (i) consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession
- (ii) take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing
- (iii) consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity)
- (iv) be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date
- (v) Ensure that they do not impose unnecessary burdens on development.

In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions.

26. The following planning policies are considered to be relevant to the consideration of this application: -

**Planning Policy Statement 1 (PPS1)** ‘Delivering Sustainable Development’ seeks to ensure that planning facilitates and promotes sustainable and inclusive patterns of urban and rural development. PPS1 also states that where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise.

**Planning Policy Statement 9 (PPS9)** sets out planning policies on protection of biodiversity and geological conservation through the planning system.

**Planning Policy Statement 23:** Planning and Pollution Control advises on the role of the Local Planning Authority in terms of development and the quality of land, air and water.

## **Planning Policy Statement 24 Planning and Noise**

**Planning Policy Statement 25:** Development and Flood Risk seeks to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new development is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and where possible, reducing flood risk overall.

## **Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change**

1. All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.
2. All new non-residential developments will be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) of 'very good' up to 2013 and thereafter a minimum rating of 'excellent'.
3. The minimum carbon reduction targets will remain in line with Part L of the Building Regulations, achieving carbon neutral domestic properties by 2016, and non-domestic properties by 2019, although it is expected that developers will aspire to meet targets prior to these dates.
4. To meet carbon reduction targets, energy efficiency measures should be embedded in all new buildings. If this is not possible, or the targets are not met, then on-site district renewable and low carbon energy schemes will be used. Where it can be demonstrated that neither of these options is suitable, micro renewable, micro carbon energy technologies or a contribution towards an off-site renewable energy scheme will be considered.
5. For all major developments, including residential developments comprising 10 or more units, and non-residential developments exceeding 1000 square metres gross floor space, at least 10% of total predicted energy requirements will be provided, on site, from renewable energy sources.
6. All major development proposals will be encouraged to make use of renewable and low carbon decentralised energy systems to support the sustainable development of major growth locations within the Borough.
7. Where suitable proposals come forward for medium to small-scale renewable energy generation, which meet the criteria set out in Policy 40 of the Regional Spatial Strategy, these will be supported. Broad locations for renewable energy generation may be identified in the Regeneration Development Plan Document.
8. Additionally, in designing new development, proposals will:
  - \_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
  - \_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;
  - \_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;
  - \_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

9. The reduction, reuse, sorting, recovery and recycling of waste will be encouraged, and details will be set out in the Joint Tees Valley Minerals and Waste Development Plan Documents.

#### **Core Strategy Policy 4 (CS4) - Economic Regeneration**

A range of opportunities will be provided within the employment land portfolio to meet the requirement set out in the Regional Spatial Strategy, as follows:

- \_ General Employment Land 255 hectares (ha)
- \_ Key Employment Location (Wynyard) 70 ha
- \_ Durham Tees Valley Airport 50 ha
- \_ Land for Chemical and Steel Industries, up to 445 ha

The main locations for general employment land will be:

- \_ Durham Lane Industrial Estate. 40 ha
- \_ Belasis Technology Park 20 ha
- \_ Teesside Industrial Estate 30 ha
- \_ Urray Nook 20 ha
- \_ Core Area 10 ha

Land for general employment uses will be released in phases as follows:

- a. 2004 - 2011 0 ha
- b. 2011 - 2016 60 ha
- c. 2016 - 2021 60 ha
- d. 2021 - 2024 40 ha

The target for the annual average development of all types of employment land is 13 hectares over the life of the Core Strategy.

To maximise opportunities for the delivery of the Regional Spatial Strategy requirements land will be safeguarded for chemical production and processing, subject to environmental constraints, in the following locations:

- a. North Tees Pools up to 100 ha
- b. Seal Sands up to 175 ha
- c. Billingham Chemical Complex up to 65 ha

If evidence comes forward that the Billingham Chemical Complex (formerly known as the ICI Process Park) is not suitable for these purposes, other specialist uses will be considered, such as reprocessing industries and biotechnology laboratories. These are also suitable locations for the installation of new, or expansion of existing potentially hazardous or polluting industries, although these will need to be sensitively and safely located.

Land will also be safeguarded on the north bank of the River Tees in the Haverton Hill and Port Clarence areas. Priority will be given to developments requiring a port or river-based site. No port or river based development will be permitted on, or on land immediately adjacent to, the North Tees Mudflat component of the Tees and Hartlepool Foreshore and Wetlands Site of Special Scientific Interest (SSSI).

Employment sites which are viable and attractive to the market will be protected from increasing pressure for redevelopment for alternative uses which may secure higher land values, for example housing.

Additionally, support will be given to:

- i) Suitable enterprises that require a rural location and which support the rural economy and contribute to rural diversification;
- ii) The establishment of new enterprises, particularly where related to existing industries, assisting them to evolve with advancing green technologies;
- iii) The expansion of research-based businesses associated with Durham University's Queen's Campus;

- iv) Growth in sustainable tourism, particularly in the following locations:
  - a. The River Tees as a leisure, recreation and water sports destination, with regard given to the protection and enhancement of the character of tranquil areas along the river corridor between the towns of Stockton and Yarm;
  - b. Preston Park;
  - c. Sites linked to the area's industrial heritage, including early history, railway and engineering heritage and the area's World War II contribution; and
  - d. Saltholme Nature Reserve.
- v) The creation of employment and training opportunities for residents by developers and employers.

### **Core Strategy Policy 10 (CS10) Environmental Protection and Enhancement**

In taking forward development in the plan area, particularly along the river corridor, in the North Tees Pools and Seal Sands areas, proposals will need to demonstrate that there will be no adverse impact on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site, or other European sites, either alone or in combination with other plans, programmes and projects. Any proposed mitigation measures must meet the requirements of the Habitats Regulations.

Development throughout the Borough and particularly in the Billingham, Saltholme and Seal Sands area, will be integrated with the protection and enhancement of biodiversity, geodiversity and landscape.

The separation between settlements, together with the quality of the urban environment, will be maintained through the protection and enhancement of the openness and amenity value of:

- i) Strategic gaps between the conurbation and the surrounding towns and villages, and between Eaglescliffe and Middleton St George.
- ii) Green wedges within the conurbation, including:
  - \_ River Tees Valley from Surtees Bridge, Stockton to Yarm;
  - \_ Leven Valley between Yarm and Ingleby Barwick;
  - \_ Bassleton Beck Valley between Ingleby Barwick and Thornaby;
  - \_ Stainsby Beck Valley, Thornaby;
  - \_ Billingham Beck Valley;
  - \_ Between North Billingham and Cowpen Lane Industrial Estate.
- iii) Urban open space and play space.

The integrity of designated sites will be protected and enhanced, and the biodiversity and geodiversity of sites of local interest improved in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation, ODPM Circular 06/2005 (also known as DEFRA Circular 01/2005) and the Habitats Regulations.

Habitats will be created and managed in line with objectives of the Tees Valley Biodiversity Action Plan as part of development, and linked to existing wildlife corridors wherever possible.

Joint working with partners and developers will ensure the successful creation of an integrated network of green infrastructure.

Initiatives to improve the quality of the environment in key areas where this may contribute towards strengthening habitat networks, the robustness of designated wildlife sites, the tourism offer and biodiversity will be supported, including:

- i) Haverton Hill and Seal Sands corridor, as an important gateway to the Teesmouth National Nature Reserve and Saltholme RSPB Nature Reserve;
- ii) Tees Heritage Park.

The enhancement of forestry and increase of tree cover will be supported where appropriate in line with the Tees Valley Biodiversity Action Plan (BAP).

New development will be directed towards areas of low flood risk, that is Flood Zone 1, as identified by the Borough's Strategic Flood Risk Assessment (SFRA). In considering sites elsewhere, the sequential and exceptions tests will be applied, as set out in Planning Policy Statement 25: Development and Flood Risk, and applicants will be expected to carry out a flood risk assessment.

When redevelopment of previously developed land is proposed, assessments will be required to establish:

- \_ the risks associated with previous contaminative uses;
- \_ the biodiversity and geological conservation value; and
- \_ the advantages of bringing land back into more beneficial use.

## **SITE AND SURROUNDINGS**

27. Billingham House has been vacant since 1995 and comprises a nine-storey office block currently stripped out. The property is located to the south west of Billingham to the north of a large industrial area and to the south west of Belasis Hall Technology Park. A residential estate, the Synthonia Sports Grounds and Charlton's Pond Local Nature reserve are to the north of the site. The land surrounding the building comprises areas of hardstanding, rough grassland, with scattered trees around the periphery and areas of scrub and ornamental planting.

28. Charlton's Pond Local Nature reserve is approximately 0.4km to the north east of the site. There is also Billingham Beck Local Nature reserve comprising Billingham Beck, wetland, woodland, ponds and meadows 1.0 km to the west of the site. Cowpen Bewley Woodland Country Park, with ponds, meadows and a large lake lies 1.5 km to the north east of the site.

29. The existing building and its curtilage has been disused for a number of years and has suffered vandalism and arson attacks. As a result the site presents a neglected and run down appearance.

## **MATERIAL PLANNING CONSIDERATIONS**

30. The main planning considerations of this application are the compliance of the proposal with national, regional and local planning policy, the impacts upon the character and appearance of the area, the impact on the amenity of neighbouring residents and businesses, highway safety, health and safety requirements, flood risk, ecology and nature conservation and other material planning considerations.

31. An objection has been received from the owner of the site stating that the applicant has not advanced any development plan justification for the demolition proposed. Nor have the full implications of demolition been assessed against Government policy and Development plan policy. Given the lack of any assessment supporting the application, it cannot properly be determined until the information is provided.

32. In response to this, whilst the Design and Access Statement has been considered, it is not accepted that the objector's criticisms are valid. It is the duty of the Local Planning Authority to consider all material planning considerations and attribute appropriate weight to them having regard to the provisions of the development plan and any other material planning consideration. The Design Access Statement is being publicised at the time of writing this report and any comments received on the content will be reported to the Planning Committee.

33. The legislation regarding the requirement for planning permission for the demolition of buildings has effectively changed following a Court of Appeal ruling which means that the demolition of all buildings will now constitute "development" and therefore require planning permission or prior approval for demolition. Previously only the demolition of residential dwellings fell within the

definition of “development”. Now any factory, office, school, hospital or other commercial building will also require planning permission, either express permission or deemed permission. Furthermore the ruling has clarified that demolition which may have a significant impact on the environment might also require an Environmental Impact Assessment (EIA) in its own right.

34. A request for a screening opinion was made by the Council to ascertain whether an EIA is required for the proposed demolition of Billingham House. Having carried out a screening assessment in accordance with the EIA Regulations the development is not considered EIA development, although this is contested by the owners of the site.

35. An objection to the demolition has been raised from the Owner of the site on the grounds that the retention and refurbishment of the building is more sustainable than demolition. In considering any proposals for demolition and redevelopment it is important to establish what contribution the existing building makes to the character or appearance of the area. The proposed development consists of the demolition of a building, which is undistinguished architecturally and makes no visual contribution to the area. The redundant office block is a stand-alone building and unrelated to surrounding developments and currently detracts from visual amenity of area due to its dilapidated state. The proposal to demolish will result in the removal of a derelict and vandalised building that presents not only a negative image of the area but in itself is a threat to anyone entering the building unauthorised because of the known contamination by asbestos and fall hazards, including a 9 storey open lift shaft and the absence of all windows on all floors.

36. The existing building and its curtilage has been disused for a number of years and has suffered vandalism and arson attacks. As a result the site presents a neglected and run down appearance, which is detracting from efforts to regenerate the area.

37. Billingham House became vacant in 1995, and was purchased by Bizzy B Management Limited (Bizzy B) in 2000 with a view to redevelopment. The location of the site, within the Health and Safety Executive's (HSE) 'Inner and Middle Consultation Distance Zones', meant that there were restrictions on uses for the site.

38. The planning history for Billingham House includes a number of proposals including change of use; demolition and partial demolition. Following years of working with the owners to reach a solution for the site, the Council considered that no progress was being made by the owners to arrive at a suitable solution and it was expedient to take legal action to require the owners to refurbish or demolish the building.

37. In view of the refurbishment scheme not coming forward as soon as anticipated, Members will be aware of the Council's decision to demolish Billingham House following the owner's failure to comply with a notice requiring them to remedy the ruinous and dilapidated condition of the building. That decision is the subject of a Judicial Review in the High Court which is ongoing. The Judicial Review is not a material planning consideration and should not be taken into account in determining the planning application.

38 The owners of the building and a local development company have proposed the redevelopment of the building for office use, including a local heritage centre and bistro. An alternative scheme for the site can be a material planning consideration, and the authority can determine the weight to be attached to that consideration. In this case there is no significant need for office space that cannot be met within the Borough, with sufficient office accommodation being available in the short and longer term. There is no architectural or historical merit to the building that would warrant significant weight being placed on a scheme to retain and redevelop the building. In addition, in this instance the outcome of the Judicial Review will determine whether the building will be demolished. It is considered that there are no circumstances in this case that should warrant the local planning authority refusing planning permission for demolition on the



grounds of an alternative scheme and therefore play a role in determining the future use of the building or site.

39. The Council recognises the importance of retaining existing land and premises for employment use and the demolition of the building does not of course preclude future redevelopment of the site for employment purposes. As stated previously the office premises has been vacant since 1995 and it is considered that suitable other sites and buildings are available both in the short and the long term to satisfy employment requirements over the plan period in the immediate locality and the wider area. Furthermore there has been extensive discussion over the future of the site with the owners which resulted in an application for demolition of the building for residential development but, was unsuccessful given the constraints imposed by the Health and Safety Executive who advised against the level of residential development due to the issue of public safety. The suggested reuse/refurbishment of the building is a comparatively recent proposal and as already stated this building has been vacant since 1995 and in the ownership of Bizzy B limited since 2000. As shown in the planning history a number of other proposals have been put forward, not all of which previously identified the retention of the entire building.

40. Given the provision of suitable employment land and floorspace available elsewhere it is considered that support can be given for the demolition of the premises.

41. Environmental considerations are particularly relevant when considering demolition proposals particularly where noise and dust and contaminants are likely.

42. It should be noted that all demolition work is subject to a number of regulations. The demolition works would be undertaken under Health and Safety at Work Act best practice and Environmental Protection Act. A demolition method statement and a method statement for the removal and disposal of asbestos containing materials had also been commissioned to ensure the safe demolition and site clearance.

43. In respect of asbestos, this would be removed under consignment notification to the Environment Agency to a Licensed Landfill site. Billingham House has been the subject of previous clearance and asbestos removal works and as such most of the soft finishes within the building have been removed along with the bulk asbestos.

44. The method statement for the demolition of the building included the treatment of waste, whether by disposal, recycling, crushing or backfilling the basement of the building. The method statement includes dust suppression methods. Subject to the full implementation of the method statements it is considered that the demolition would not have a significant effect on the environment. The period for demolition works is anticipated to last 16 weeks with no significant impact for duration of works. The demolition method statement makes it clear that no waste will be left on site at completion of the demolition.

45. In respect of impact on the natural environment and protected species, the application is accompanied by a Bat Survey Report (August 2010), which concluded that the impact of the demolition is low with regards to bats. No bats were found to be using the building during the evening emergence and dawn re-entry surveys so no impact on bats is expected. As no bats were found to be using the buildings for roosting, a mitigation strategy to protect bats during demolition is not deemed necessary, and no compensation or enhancement works are proposed. An informative is recommended to inform contractors as to their responsibilities towards protected species.

46. In terms of natural environment, Billingham House is a redundant stripped office building surrounded by areas of hard standing, rough grass land with scattered trees around the periphery and areas of scrub and overgrown ornamental planting. The nearest local nature reserve is 0.4 Kilometres away from the site and is separated by other uses and it is considered that there will be

no adverse impact on local wildlife sites as a result of the development. An objection was received from the owners of the site arguing that there is a high likelihood of the site being occupied by protected species especially Bats. However on the basis of the ecological information provided, the location and no representations being received from the specialist ecology bodies consulted it is considered that the objection is not soundly based.

47. Environmental Health was consulted and has no objection in principle to the development, subject to the imposition of planning condition regarding restriction construction times, unexpected land contamination.

48. The Environment Agency has raised no objection to the proposed development and it is considered that impacts of surface water runoff and flooding is not significant and is therefore acceptable, according with Core Strategy Policy CS10.

49. The Head of Technical Services has considered the proposal and states that as part of the tender process for the demolition, appropriate HGV routing has been identified and the existing site access will be utilised. This is acceptable. The demolition works will be strictly controlled by Health and Safety legislation, including mitigation for any effects the development may have on users of the adjacent highway; therefore, there is no objection to this application.

## **CONCLUSION**

50. Although there are proposals which have been put forward to retain/refurbish the building, the application to demolish the building follows years of discussion to seek to bring about the reuse of the building and remedy the eyesore. However no satisfactory progress has been made in the reuse of the building and the Council served a Notice which the owner failed to comply with and therefore the Council now seeks to demolish the building in default of the Notice. The issue of the likelihood of refurbishment is to be determined by the High Court and even if planning permission is granted demolition cannot take place until the judicial review is determined.

51. It is considered that the principle of demolition is acceptable in this location with no sound planning reasons for the building to be retained. A method statement has been prepared for the removal and disposal of asbestos safely and without significant impact on the environment. The method statement for the demolition of the building included the treatment of waste, whether by disposal, recycling, crushing or backfilling the basement of the building. The method statement includes dust suppression methods. These method statements indicate that the demolition would not have a significant effect on the environment. The demolition method statement makes it clear that no waste will be left on site at completion of the demolition. It is considered that the demolition would not have any undue impact on ecological habitat and flooding. The associated highway activities are acceptable to the Head of Technical Services and it does not adversely impact on neighbouring properties and businesses and will comply with Health and Safety Executive requirements and it is considered that, the development can be supported and the application is therefore recommended for approval subject to appropriate planning conditions to secure necessary controls over the development.

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer Mr Gregory Archer Telephone No 01642 526052**

## **WARD AND WARD COUNCILLORS**

**Ward**                      **Billingham South**  
**Ward Councillor**      **Councillor Mrs J. O' Donnell**

**Ward  
Ward Councillor**

**Billingham South  
Councillor M. Smith**

## **IMPLICATIONS**

### **Financial Implications:**

The Council has obtained ONE funding to contribute towards the costs of the demolition and the remaining costs will be initially funded by the Council and are recoverable from the owner. The costs are subject to potential challenge, but the costs of the proposed demolition are not a material planning consideration with any weight in these circumstances.

### **Environmental Implications:**

As Report

### **Human Rights Implications:**

The human rights of the owner of the building in respect of the loss of the building have to be considered and be balanced against the human rights of those affected by the condition of the building and the public interest in its demolition. The determination process, incorporated in the Town and Country Planning Act 1990 (as amended) and its associated Regulations and Orders, is compatible with the European Convention of Human Rights 1950.

### **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

Planning Policy Statement 4: Planning for Sustainable Economic Growth

Planning Policy Statement 9: Biodiversity and Geological conservation

Planning Policy Guidance 13: Transport

Planning Policy Statement 23: Planning and Pollution Control

Planning Policy Guidance 24: Planning and Noise

Planning Policy Statement 25: Development and Flood Risk

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

Core Strategy Policy 4 (CS4) - Economic Regeneration

Core Strategy Policy 10 (CS10) - Environmental Protection and Enhancement

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