

**DELEGATED**

**AGENDA NO**

**PLANNING COMMITTEE**

**12 October 2011**

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

**11/2293/VARY**

**Tall Trees Hotel, Worsall Road, Kirklevington**

**Application to vary condition 7 (phasing) of 11/0549/OUT (Outline application for executive development consisting of 62 detached dwellings and 81 apartments).**

**Expiry Date: 8 December 2011**

### **SUMMARY**

Planning permission was granted for executive development consisting of 62 detached dwellings and 81 apartments in June 2011.

Support was given to the application for the redevelopment of the Tall Trees site based on the delivery of a 5\* prestigious hotel and conference facility and the regeneration and economic benefits the scheme would bring to the Borough and the wider area. In terms of the consent it was accepted by the Council that in order to facilitate the provision of a 5\* hotel, investment from residential development will be required. As such it was considered the regeneration and economic benefits outweighed the policy objections, which would otherwise apply to the housing scheme.

In order to prevent the development of the housing exclusively of the hotel, the following condition (number 7) was imposed.

*“No work shall commence on site until a phasing plan has been submitted to and approved in writing by the Local Planning Authority to clearly illustrate corresponding phases to be undertaken between the hotel (as approved by planning permission 04/3905/EIS and associated reserved matters) and the housing hereby approved. Thereafter the development shall be undertaken in accordance with the approved phasing plan with no residential development being commenced in any subsequent phase before the previous phase has been completed and the corresponding phase of the Hotel has been completed, unless otherwise first agreed in writing by the Local Planning Authority. No residential development shall commence until the first phase of the hotel development 04/3905/EIS (or such other permission as may be approved for the hotel development) has been implemented.*

*Reason: To enable the Planning Authority to retain effective control over the development”.*

However the applicant has now put forward a case that linked phased implementation of the hotel permission alongside the implementation of the residential development (as required by condition 7) would reduce the appeal of the housing site and significantly reduce the marketability and price of the site to the point that the land will not be saleable with the unintended consequence that the enablement objective will be frustrated (see correspondence from Knight Frank, Bellway and Bett Homes are included in Appendix 2). In essence this is because an external purchaser such as the

National Housebuilders would have to rely on a third party to undertake the works to the Hotel within set timeframes and this would be beyond the control of the developer of the residential element of the site and would therefore seek a title free of restrictions.

The applicant states that he is in “an untenable situation in that he is committed to redeveloping the hotel but restrictions imposed by the Council will at best substantially reduce the value of the land or at worst make it a sale impossible. This will then make the redevelopment unviable and the future of the hotel and the current employees will be grim”

It is recognised that restrictions on the consent may from the Housebuilder’s perspective reduce the appeal of the housing site and reduce the value of the site, however should the development of the housing go ahead on an unrestricted basis then this runs the risk that the hotel is not delivered.

In order to arrive at a mutually acceptable programme for the redevelopment of the site the applicant has submitted this Section 73 planning application to amend Condition No 7 from outline planning consent reference 11/0549/OUT.

The applicant has proposed alternative wording for condition 7, which reads as follows.

“Work shall be carried out in accordance with the Phasing Plan drawing number 1017/010 and the related Phasing Bar Chart both referred to in the Section 106 Agreement unless otherwise first agreed in writing by the Local planning Authority”.

In conjunction with this alternative wording, a new Section 106 Agreement to include phasing is proposed. This will include additional obligations on the applicant including:

- a. The phasing shall be carried out in accordance with drawing number 1017/010 and the related phasing schedule.
- b. Block 1 of the hotel (Phase 4) shall be commenced no later than receipt of all of the monies for the sale of the housing land.

The obligations contained in the current Section 106 Agreement will remain covering Footpath and Cycle Route Contribution (£154,000); Car Park Contribution (£100,000) and a Local Labour Agreement (see Appendix 3 for Phasing Plan and Phasing Bar Chart).

In the opinion of the Head of Planning it is considered that revised condition together with the S106 legal agreement will allow for the Local Planning Authority to retain control over the hotel development. It is considered that there have been no material changes in the circumstances relating to the previous decision and there are no new wider fundamental policy implications arising from the details of the variation of the parent planning permission. However it must be pointed out that the delivery of the Hotel will still be subject to the volatility of the economy which is clearly outside the control of the Local Planning Authority.

The application is therefore recommended for approval subject to conditions and a Section 106 agreement to secure the phasing of the hotel, a local labour agreement and highway mitigation measures.

## **RECOMMENDATION**

***That planning application 11/2293/VARY be approved subject to the applicant entering into a Section 106 Agreement in accordance with the Heads of Terms below and the following conditions and Informatives***

***In the event of the legal agreement having not been signed, or there still being outstanding matters on the 8 December 2011 that the application be refused.***

## HEADS OF TERMS

### Phasing

That the construction of the hotel be in accordance with the Indicative Phasing plan drawing number 1017/010 and related Phasing Schedule

### Footpath and Cycle Route Contribution

Prior to the Occupation of the tenth Dwelling constructed pursuant to the Permission the Owner shall pay £154,000 to the Council towards the provision of a footpath and cycle route linking the Application Site with Yarm Station

### Car Park Contribution

Prior to the Occupation of the tenth Dwelling constructed pursuant to the Permission the Owner shall pay £100,000 to the Council towards the costs of providing a long-stay car park to serve Yarm Town Centre

### Employment and Training

The Owner covenants with the Council as follows:

to use reasonable endeavours to ensure that ten per cent (10%) of the Jobs on the construction phase of the Development are made available to residents of the Target Area; to use reasonable endeavours to ensure that ten per cent (10%) of the total net value of the services and materials used in the construction phase of the Development are provided by Businesses within the Target Area; to take reasonable steps to procure that any contractor and/or sub-contractor nominate an individual to liaise with the Labour Market Co-ordinator; to liaise with the Labour Market Co-ordinator in order to produce the Method Statement to be submitted to the Council prior to the Commencement Date. The Method Statement shall demonstrate the reasonable steps to be taken for each Job vacancy and opportunity for services and materials to be advertised and available to individuals and Businesses within the Target Area and shall include details regarding the provision of monitoring information to be provided to the Labour Market Co-ordinator. The Owner shall not Commence Development until the Method Statement has been agreed by the Council.

### **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><i>Plan Reference Number</i></b>	<b><i>Date on Plan</i></b>
<b><i>1017/001</i></b>	<b><i>9 March 2011</i></b>

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

**02.     *Notwithstanding the submitted information Saltergill school building shall be demolished in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority before development commences and shall be carried out in accordance with the approved details.***

***Reason: In the interest of the visual amenity of the area and future users of the development***

**03. The development shall be carried out in accordance with the Phasing Plan drawing number 1017/010 and the related Phasing Bar Chart both referred to in the Section 106 Agreement unless otherwise first agreed in writing by the Local Planning Authority.**

**Reason: In order for the Local Planning Authority to retain control over the development**

**04. Approval of the details of the access, appearance, layout and scale of the buildings and landscaping of the site shall be in accordance with the details of the scheme to be submitted to and approved by the Local Planning Authority before the development commences.**

**Reason: To reserve the rights of the Local Planning Authority with regard to these matters.**

**05. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the latest.**

**Reason: By virtue of the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.**

**06. Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

**Reason: By virtue of the provisions of Section 92 of the Town and Country Planning Act 1990. as amended by the Planning and Compulsory Purchase Act 2004.**

**07. The development shall be implemented in general conformity with the approved Design and Access Statement and illustrative drawing number 1017/002C submitted with the planning application unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: To ensure that the Reserved Matters for the access, appearance, layout and scale of the buildings and landscaping of the site to be submitted are in accordance with the approved Design and Access Statement and to enable the Local Planning Authority to satisfactorily control the development.**

**08. No development shall commence until a design code setting out the comprehensive design framework for the residential dwellings has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the design code should be implemented in accordance with the approved scheme unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: To ensure a satisfactory form of development.**

**09. The total amount of residential units as authorised by this permission shall not exceed 62 dwellings and 81 apartments.**

**Reason: To ensure a satisfactory form of development.**

**10. Before development commences details shall be submitted to and approved by the Local Planning Authority of a scheme to provide electric vehicle charging infrastructure. The electric vehicle charging infrastructure shall be in place and operational before any buildings hereby approved are occupied.**

***Reason: To ensure that the development incorporates measures to limit carbon emissions, in the interests of promoting sustainable development.***

***11. The development shall secure at least 10% of its energy supply from renewable energy or low carbon sources, unless otherwise agreed in writing by the Local Planning Authority. No development shall take place within any phase until an energy strategy has been submitted to and agreed in writing by the Local Planning Authority for that phase which includes details of how that phase will contribute towards achieving the 10% requirement for the whole development. Thereafter the agreed scheme shall be implemented in complete accordance with the details of the scheme unless otherwise agreed in writing by the Local Planning Authority.***

***Reason: To ensure a sustainable form of development which secures energy from renewable sources.***

***12. No construction works shall take place on the external surfaces of any building(s) within any Phase until the materials to be used on external surfaces for that building(s) have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.***

***Reason: In the interests of visual amenity.***

***13. No development shall take place within any Phase until details of the means of boundary treatment for that Phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.***

***Reason: In the interests of visual amenity.***

***14. Prior to first occupation within any Phase, a scheme for the provision of street furniture for that Phase, including timescale for delivery, should be submitted to and approved in writing by the Local Planning Authority. Thereafter, development shall be carried out in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.***

***Reason: In the interests of visual amenity.***

***15. No development shall take place within any Phase until details of the means and location for the storage and disposal of refuse for each unit within that Phase have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.***

***Reason: In the interests of visual amenity and operational requirements of the Local Planning Authority.***

***16. No development shall take place within each Phase until the details of the service roads, means of vehicular access to each building, footpath and cycle routes and any highway works, including any off-site highway works as may be required within that Phase, together with a phasing strategy for the implementation of these works, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.***

**Reason: To ensure a satisfactory form of development and in the interests of highway safety.**

**17. No development shall commence within each Phase until a car parking scheme for that Phase, including temporary parking for use during the construction period, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: To ensure a satisfactory form of development.**

**18. No development shall commence on site until full details of hard surfacing materials for the provision of car parking both within and without residential curtilages within the site have been submitted to and approved in writing by the Local Planning Authority. Such materials shall either be permeable or provision shall be made to direct run off to a permeable or porous area or surface within the curtilage of the dwelling and these works shall be carried out as approved.**

**Reason: To ensure a satisfactory form of development for surface water disposal.**

**19. No development shall commence within each Phase until a detailed scheme for landscaping and tree and/or shrub planting and grass for that Phase has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall specify stock types, stock sizes and species, planting densities, layout contouring, drainage and surfacing of all open space areas. The works shall be completed in accordance with a phasing scheme to be agreed in writing with the Local Planning Authority. Should any trees or plants, excluding those within privately owned domestic gardens, within a period of five years from the date of planting die, be removed, become seriously damaged or diseased, these shall be replaced in the next planting season with others of a similar prior attained size and species unless the Local Planning Authority gives written consent to any variation.**

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

**20. No development shall be occupied within each Phase until a hard and soft landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape and public realm areas, other than privately owned domestic gardens, for that Phase has been submitted to and approved by the Local Planning Authority. Soft landscape maintenance shall be detailed for the initial 5 year establishment period. A long-term management plan for all landscape and public realm areas for a period of 20 years should be submitted to and approved in writing with the Local Planning Authority. The landscape management plan shall be carried out as approved, unless the Local Planning Authority gives written consent to any variation.**

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

**21. All trees on site and within 10m of its external boundary shall be indicated on a Site Survey Plan. These trees shall be assessed in accordance with BS5837:2005 Trees in Relation to Construction. The assessment should concur with the latest site plans and include for the following information:**

**A plan to scale and level of accuracy appropriate to the proposal showing the position of every tree on and adjacent to the site with a stem diameter over the bark measured at 1.5 metres above ground level at 75mm.**

***A tree schedule as detailed in Ref. 4.2.6 BS5837:2005;***

***A schedule of all tree works specifying those to be removed, pruning and other remedial or preventative work.***

***Details of any ground level changes or excavations within 5 metres of the Root Protection Area (Para 5.2.2. of BS5837) of any tree to be retained including those on adjacent land.***

***A statement setting out long term future of the trees in terms of aesthetic quality and including post development pressure.***

***Reason: To assess the existing trees on site that the Local Planning Authority consider to be an important visual amenity in the locality and should be appropriately maintained***

***22. No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Any tree, shrub or hedge or any tree/shrub or hedge planted as a replacement that dies or is removed, uprooted or destroyed or becomes seriously damaged or defective within a period of five years from the date of planting must be replaced by another of the same size and species unless directed in writing by the Local Planning Authority.***

***Reason: To protect the existing trees/shrubs and hedges on site that the Local Planning Authority consider to be an important visual amenity in the locality and should be appropriately maintained.***

***23. No development shall commence within any Phase until a scheme for the protection of trees (Section 7, BS 5837:2005) either within or within 10m of the site boundary to that Phase has been submitted to and approved in writing by the Local Planning Authority. The requirements of Stockton-on-Tees Borough Council in relation to the British Standard are summarised in the technical note ref INFLS 1 (Tree Protection). Any such scheme agreed in writing by the Local Planning Authority shall be implemented prior to any equipment, machinery or materials being brought to site for use in the development and be maintained until all the equipment, machinery or surplus materials connected with the development have been removed from the site.***

***Reason: To protect the existing trees on site that the Local Planning Authority consider to be an important visual amenity in the locality which should be appropriately maintained and protected.***

***24. No development shall take place within each phase until the details of the existing and proposed levels of the site including the finished floor levels of the buildings to be erected, changes of gradient levels on roads and footpaths within the development and any proposed mounding and or earth retention measures (including calculations where such features support the adopted highway) within that phase has been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details. Attention should be given to existing vegetation and surrounding landform.***

***Reason: To ensure that earth-moving operations, retention features and the final landforms resulting are structurally sound, compliment and not detract from the visual amenity of the area, the living conditions of nearby residents or integrity of existing natural features and habitats.***

**25. No development shall take place within each phase until the details of all external finishing materials and gradient changes including roads and footpaths within that phase shall be agreed with the Local Planning Authority before the development is commenced.**

**Reason: To reserve the rights of the Local Planning Authority with regard to these matters.**

**26. No development shall commence within any Phase until a scheme of lighting for that Phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter, development shall take place in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: In the interests of visual amenity.**

**27. A Construction Management Plan shall be submitted and agreed in writing, prior to the commencement of development on each phase, with the Local Planning Authority to effectively control dust, noise and other emissions due to construction operations and traffic movements to and from the site, this shall address vehicular routeing, earth moving activities, control and treatment of stock piles, parking for use during construction and measures to protect any existing footpaths and verges, vehicle movements including deliveries, wheel washing, sheeting of vehicles, offsite dust/odour monitoring and communication with local residents.**

**Reason: In the interests of the occupiers of adjacent and nearby premises.**

**28. In the event that contamination is found at any time when carrying out the approved development, 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 and works shall not be resumed until a remediation scheme to deal with contamination of the site has been carried out in accordance with details first submitted to and approved in writing by the Local Planning Authority. This scheme shall identify and evaluate options for remedial treatment based on risk management objectives. Works shall not resume until the measures approved in the remediation scheme have been implemented on site, following which, a validation report shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include programmes of monitoring and maintenance, which will be carried out in accordance with the requirements of the report.**

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

**29. All construction 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.**

**30. The residential units shall be built to Lifetime Homes Standards and achieve a minimum of Level 3 of the Code for Sustainable Homes if commenced before 1 January 2013 and thereafter a minimum of Code Level 4 unless otherwise agreed in writing with the Local Planning Authority or any other equivalent Building Regulation rating at the time of the submission of the application for reserved matters.**



**Reason: In order to minimise energy consumption in accordance with Stockton-on-Tees Adopted Core Strategy policy CS3.**

**31. Development shall not commence until a detailed scheme for the disposal of Foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.**

**Reason: The Sewage System to which the development will discharge has reached its design capacity and cannot accept the anticipated flows.**

**32. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.**

**The scheme shall also include:**

**Confirmation of the proposed discharge rate and how it was calculated.**

**Details of the existing drainage network and discharge location.**

**Confirmation the proposed network operates without flooding up to the 30 year peak storm event.**

**Confirmation that any flooding from the proposed network up to the 100 year peak storm event is retained on site at no risk to people or property.**

**Consideration for climate change.**

**Details of the proposed outfall to the watercourse.**

**Details of the sustainable drainage measures to be incorporated into the design.**

**Details of how the scheme shall be maintained and managed after completion**

**Reason: To prevent the increased risk of flooding, and ensure future maintenance of the surface water drainage system.**

**33. Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the Saltergill Beck shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include:**

**plans showing the extent and layout of the buffer zone**

**details of the planting scheme (for example, native species)**

**details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term**

**details of any footpaths, fencing, lighting etc.**

**Reasons: Development that encroaches on watercourses has a potentially severe impact on their ecological value. This is contrary to government policy in Planning Policy Statement 1 and Planning Policy Statement 9 and to the UK Biodiversity Action Plan. Land alongside Salter gill Beck is valuable for wildlife and should be remain free of development. Article 10 of the Habitats Directive also stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity. Such networks may also help wildlife adapt to climate change.**

**34. No development shall take place unless in accordance with the mitigation detailed within the protected species report 'An Extended Phase 1 and Protected Species Survey of Land at Tall Trees, Yarm,' E3 Ecology Ltd., August 2009 including, but not restricted to adherence to timing and spatial restrictions; provision of mitigation in advance; undertaking confirming surveys as stated; adherence to precautionary working methods; provision of a bat loft.**

**Reason: To conserve protected species and their habitat.**

**35. All works shall be undertaken in accordance with the GCN Method Statement included at Appendix 2 of 'An Extended Phase 1 and Protected Species Survey of Land at Tall Trees, Yarm,' E3 Ecology Ltd., August 2009.**

**Reason: To conserve protected species and their habitat.**

**36. Development shall not be commenced within each phase until the Local Planning Authority has approved in writing the details of the provision of public open space within the former Saltergill School and arrangements for the setting out of the Public Open Space for each phase by the developer, as part of the development, and such arrangements shall address and contain the following matters:**

**A) The type and nature of the facilities to be provided within the Public Open Space**

**B) The arrangements the developer shall make to ensure that the Public Open Space is laid out and completed during the course of the development**

**The arrangements the developer shall make for the future maintenance of the Public Open Space**

**The open space shall be completed in accordance with the approved scheme and phasing arrangements as agreed under part B) above.**

**Reason: To enable the Local Planning Authority to satisfactorily control the development**

**37. A Stage 1 Road Safety Audit should be submitted to and agreed in writing by the Local Planning Authority with the reserved matters application. The findings of the report should be implemented as approved, unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: In the interests of highway safety**

## **INFORMATIVES**

The Proposal has been considered against the policies below and it is considered that there are important material benefits arising from the high quality development and the economic benefits to the Borough and the wider area. As such it is considered they outweigh the policy objections, which would otherwise apply to the scheme.

Stockton on Tees Local Plan policies EN4 and EN13

Stockton-on-Tees Borough Council Core Strategy Development Plan March 2010 policies CS1, CS2, CS3, CS7, CS10 and CS11.

Regional Spatial Strategy (RSS) for the North East of England July 2008

Planning Policy Statements 1, 3, 4, 7, 9, 22 and 25 and Guidance Notes No 13 and 17.

The applicant should be aware that the Saltergill Beck is a main river and as such any works in, over, under, or within 5 metres will require the prior written consent of the Environment Agency under the Water Resources Act 1991.

The Environment Agency records show that there could be Water Vole in the area. These are protected under the Wildlife & Countryside Act 1981. Further guidance can be found at Natural England's website <http://www.naturalengland.org.uk/>

There are limited flood zones associated with the Saltergill Beck. Looking at the indicative layout, the footprint of development is not in this area, however should any residential plots backing on to the beck remain at the same extent, we would require details of any planned fencing along the bottom of the plots. Any fencing in that area should be designed to allow flood water to pass through it, therefore reducing the risk of any associated increase in flood risk to adjacent areas.

Before carrying out any excavation, trial holes must be dug to find the exact position of gas pipes, using recognised and agreed safe hand digging techniques. Reference should be made to the HSE Guidance Note HSG47 - 'Avoiding Danger from Underground Services'.

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.

Our contact telephone number for further information is: 0800 688 588

Medium or Low Pressure Gas Distribution Apparatus

There is Low or Medium pressure gas apparatus in the vicinity of your enquiry which may be affected by your proposed activities.

It is essential that NO mechanical excavations take place above or within 0.5 m of Low and Medium pressure systems.

You should where required CONFIRM THE POSITION of mains using HAND DUG TRIAL HOLES.

If working in the vicinity of a high pressure gas pipeline the following document must be followed:

'Specification for Safe Working in the Vicinity of National Grid High Pressure Gas Pipelines and Associated Installations – Requirements for Third Parties' SSW22. This can be obtained from:

[http://www.nationalgrid.com/NR/ronlyres/50ACAC0A-ED26-41A7-91FA-83163A98270F/23790/TSPSSW22\\_J537\\_Rev0807.pdf](http://www.nationalgrid.com/NR/ronlyres/50ACAC0A-ED26-41A7-91FA-83163A98270F/23790/TSPSSW22_J537_Rev0807.pdf)

National High Pressure Gas Pipelines Guidance:

[http://www.nationalgrid.com/NR/ronlyres/446009BF-ABB5-42E1-B9FE-44E90D577DD5/18653/APTGasGuidance\\_2\\_.pdf](http://www.nationalgrid.com/NR/ronlyres/446009BF-ABB5-42E1-B9FE-44E90D577DD5/18653/APTGasGuidance_2_.pdf)

Safe digging practices, in accordance with Health and Safety Executive document HSG47, must be used to verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any mechanical plant is used.

It is your responsibility to ensure that all relevant information is provided to all persons (either direct labour or contractors) working for you on or near National Grid apparatus.

It must be stressed that both direct and consequential damage to gas or electricity apparatus can be dangerous both for your employees and the general public.

Repairs to any such damage will incur a charge. Your works should be carried out in such a manner that we are able to gain access to our apparatus throughout the duration of your operations.

Work carried out without proper consultation is done so at your own risk.

Please note that apparatus owned by other operators may be present in this area. Information with regard to such apparatus should be obtained from the owners.

Should the location, date or nature of your activities change, you must submit another enquiry which reflects the updated details.

In paragraph 4.35 it indicates that should electrical vehicle users wish to use the charging point at Yarm Railway Station they should register with Stockton-on-Tees Borough Council – this is not the case. To use this and any of the other posts in the Plugged in Places project they should register with Charge Your Car ([www.chargeyourcar.org.uk](http://www.chargeyourcar.org.uk))

Another potential incentive to reduce the reliance on the car is to promote the use of home deliveries for household groceries – the Travel Plan Coordinator should explore the opportunity to provide discount vouchers within the welcome packs.

It is noted that the Council will consider the Title Transfer of the POS in perpetuity for areas which are of general benefit to the development. Should the developer wish to seek Title Transfer of the POS to the Council then the developer will be required to clearly identify all areas that are proposed for transfer. Failure to do so shall mean that no land within the development shall be agreed for Title Transfer by the Council. On agreement by the Council for Title Transfer of land the Developer shall enter into separate discussions with the Council to agree a commuted lump sum figure to pay for the on going maintenance of the POS and any facilities contained within its boundaries.

The Council will not normally accept Title Transfer of small parcels of ground or areas that are awkwardly shaped or located which will be too costly to maintain. These should where appropriate be incorporated into the gardens or curtilage of adjacent properties. The open space shall be completed in accordance with the approved scheme and phasing arrangements as agreed.

It should be ensured that, during construction, deliveries to the site do not obstruct the highway. If deliveries are to be made which may cause an obstruction to the highway then early discussion should be had with the Highway Authority on the timing of these deliveries and measuring that may be required so as to migrate the effect of the obstruction to the general public

## **BACKGROUND**

1. Tall Trees Hotel originally existed as a country residence before being converted into a small hotel in the 1960's. Since this conversion the hotel has been extensively refurbished and extended to create what is now a 120 bed hotel and leisure complex. The site was also once home to the Tall Trees Nightclub but this recently closed due to financial difficulties.

2. The Planning History for the Tall Trees site is extensive, however for the purposes of this application, only the most recent permissions for the hotel extension and 250 apartments are considered pertinent: -

04/3905/EIS Resubmission of Outline application for the erection of 250 no. apartments and hotel extension including new leisure and business centre and new means of access (demolition of existing nightclub/leisure complex/function rooms).

06/3419/REM Reserved matters application for approval of external appearance for hotel extensions and erection of 250 no. apartments.

08/0613/REM Reserved matters application for approval of landscaping of the site of planning approval.

11/0549/OUT Outline application for executive development consisting of 62 detached dwellings and 81 apartments.

## **CONSULTATIONS**

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

Tees Archaeology

No comments or objections to make

Northern Gas Networks

No objection and standard mains enclosed

The Environment Agency

We have considered the proposed variation and have no objection to this condition being amended as suggested.

Environmental Health Unit

No further comments

The Ramblers Association

We have no comments

Highways Agency

The Highways Agency has reviewed the additional information and has no objections to the variation of condition 7 relating to outline application 11/0549/OUT

Sport England

As the proposal does not have any impact on sport facilities or playing field, Sport England has no comments to make

Private Sector Housing - Mr Dave Dawson

No objections or comments to make

Head of Technical Services

There is no Technical Services objection to this application to vary condition 7 of previous approved application 11/0549/OUT subject to all related conditions and S106 agreement being in place.

**PUBLICITY**

4. It should be noted that the applicant had previously undertaken consultation in accordance with the adopted Statement of Community Involvement which involved advertisement in the press, exhibition at Tall Trees with invites to local residents, Yarm Town Council and Stockton council members. It concluded no fundamental objections to the proposal or issues raised.

5. Local residents have been individually notified of the application and advertised on site and comments received are set out below: -

Mr G Aston, 20 Carew Close, Yarm, TS15 9TJ

My main objection is the extra traffic using routes into an already congested Yarm. The only new development that Yarm needs is a major car parking facility.

Mr R Bilham, 10 Troutdale Close, Yarm, TS15 9UW

This development will require a significant intrusion in to the surrounding green belt area. There is a safety concern with the increased level of traffic on an already busy section of road.

Mr and Mrs D Page, 34 Carew Close, Yarm

Variation means that there is no guarantee that the hotel will be improved – affecting jobs

## **PLANNING POLICY**

6. 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 Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP)

7. 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 3 (PPS3)** : Housing seeks to secure mixed communities with developments incorporating both affordable housing and appropriate levels of housing. Requires housing to be responsive to local need and designed to a constantly high standard responding to local distinctiveness and reflect wider environmental and sustainability considerations.

**Planning Policy Statement 7 (PPS7)** 'Sustainable Development in Rural Areas' states that new development in the open countryside away from existing settlements, or outside areas allocated for development in development plans should be strictly controlled. It also states that planning authorities should ensure that the quality and character of the wider countryside is protected and, where possible, enhanced. PPS7, together with PPS13 'Transport', both emphasise that accessibility should be a key consideration in all development decisions. Most developments that are likely to generate large numbers of trips should be located in or next to towns or other service centres that are accessible by public transport, walking and cycling.

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

**Planning Policy Guidance Note 13:** Transport seeks to integrate planning and transport by reducing the reliance on the motor car, encouraging the use of more sustainable transport choices, reduce the need to travel, and promote accessibility to jobs, shopping, leisure facilities and services by public transport, cycling and walking.

**Planning Policy Guidance Note 17:** Planning for Open Space, Sport and Recreation seeks to ensure that provision is made for local sports and recreation facilities (both either through an increase in number of facilities or through improvements through existing facilities) where planning permission is granted for new developments (especially housing).

**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 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.

**Regional Spatial Strategy (RSS) for the North East of England July 2008**

**Supplementary Planning Document 3: Parking Provision for New Developments** sets out the Council's standards for parking standards associated with new development.

**Supplementary Planning Document : Open Space, Recreation and Landscaping** sets out the level of Planning Obligation contributions required for new development and the circumstances in which open space will be required on site.

**Supplementary Planning Document 6 : Planning Obligations** sets out the Council's approach towards securing planning obligations associated with development within the Borough.

### **Core Strategy Policy 1 (CS1) - The Spatial Strategy**

1. The regeneration of Stockton will support the development of the Tees Valley City Region, as set out in Policies 6 and 10 of the Regional Spatial Strategy 4, acting as a focus for jobs, services and facilities to serve the wider area, and providing city-scale facilities consistent with its role as part of the Teesside conurbation. In general, new development will be located within the conurbation, to assist with reducing the need to travel.
2. Priority will be given to previously developed land in the Core Area to meet the Borough's housing requirement. Particular emphasis will be given to projects that will help to deliver the Stockton Middlesbrough Initiative and support Stockton Town Centre.
3. The remainder of housing development will be located elsewhere within the conurbation, with priority given to sites that support the regeneration of Stockton, Billingham and Thornaby. The role of Yarm as a historic town and a destination for more specialist shopping needs will be protected.
4. The completion of neighbourhood regeneration projects at Mandale, Hardwick and Parkfield will be supported, and work undertaken to identify further areas in need of housing market restructuring within and on the fringes of the Core Area.
5. In catering for rural housing needs, priority will be given to the provision of affordable housing in sustainable locations, to meet identified need. This will be provided through a rural exception site policy.
6. A range of employment sites will be provided throughout the Borough, both to support existing industries and to encourage new enterprises. Development will be concentrated in the conurbation, with emphasis on completing the development of existing industrial estates. The main exception to this will be safeguarding of land at Seal Sands and Billingham for expansion of chemical processing industries. Initiatives which support the rural economy and rural diversification will also be encouraged.

### **Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel**

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.
2. All major development proposals that are likely to generate significant additional journeys will be accompanied by a Transport Assessment in accordance with the 'Guidance on Transport Assessment' (Department for Transport 2007) and the provisions of DfT Circular 02/2007, 'Planning and the Strategic Road Network', and a Travel Plan, in accordance with the Council's 'Travel Plan Frameworks: Guidance for Developers'. The Transport Assessment will need to demonstrate that the strategic road network will be no worse off as a result of development. Where the measures proposed in the Travel Plan will be insufficient to fully mitigate the impact of

increased trip generation on the secondary highway network, infrastructure improvements will be required.

3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide. Further guidance will be set out in a new Supplementary Planning Document.

4. Initiatives related to the improvement of public transport both within the Borough and within the Tees Valley sub-region will be promoted, including proposals for:

- i) The Tees Valley Metro;
- ii) The Core Route Corridors proposed within the Tees Valley Bus Network Improvement Scheme;
- iii) Improved interchange facilities at the existing stations of Thornaby and Eaglescliffe, including the introduction or expansion of park and ride facilities on adjacent sites; and
- iv) Pedestrian and cycle routes linking the communities in the south of the Borough, together with other necessary sustainable transport infrastructure.

5. Improvements to the road network will be required, as follows:

- i) In the vicinity of Stockton, Billingham and Thornaby town centres, to support the regeneration of these areas;
- ii) To the east of Billingham (the East Billingham Transport Corridor) to remove heavy goods vehicles from residential areas;
- iii) Across the Borough, to support regeneration proposals, including the Stockton Middlesbrough Initiative and to improve access within and beyond the City Region; and
- iv) To support sustainable development in Ingleby Barwick.

6. The Tees Valley Demand Management Framework will be supported through the restriction of long stay parking provision in town centres.

7. The retention of essential infrastructure that will facilitate sustainable passenger and freight movements by rail and water will be supported.

8. This transport strategy will be underpinned by partnership working with the Highways Agency, Network Rail, other public transport providers, the Port Authority, and neighbouring Local Authorities to improve accessibility within and beyond the Borough, to develop a sustainable

### **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 7 (CS7) - Housing Distribution and Phasing**

1. The distribution and phasing of housing delivery to meet the Borough's housing needs will be managed through the release of land consistent with:

- i) Achieving the Regional Spatial Strategy requirement to 2024 of 11,140;
- ii) The maintenance of a 'rolling' 5-year supply of deliverable housing land as required by Planning Policy Statement 3: Housing;
- iii) The priority accorded to the Core Area;
- iv) Seeking to achieve the target of 75% of dwelling completions on previously developed land.

2. No additional housing sites will be allocated before 2016 as the Regional Spatial Strategy allocation has been met through existing housing permissions. This will be kept under review in accordance with the principles of 'plan, monitor and manage'. Planning applications that come forward for unallocated sites will be assessed in relation to the spatial strategy.

3. Areas where land will be allocated for housing in the period 2016 to 2021:

Housing Sub Area Approximate number of dwellings (net)  
Core Area 500 - 700  
Stockton 300 - 400  
Billingham 50 - 100  
Yarm, Eaglescliffe and Preston 50 - 100

4. Areas where land will be allocated for housing in the period 2021 to 2024:

Housing Sub Area Approximate number of dwellings (net)  
Core Area 450 - 550

Stockton 100 - 200

5. Funding has been secured for the Tees Valley Growth Point Programme of Development and consequently the delivery of housing may be accelerated.

6. Proposals for small sites will be assessed against the Plans spatial strategy.

7. There will be no site allocations in the rural parts of the Borough

### **Core Strategy Policy 8 (CS8) - Housing Mix and Affordable Housing Provision**

1. Sustainable residential communities will be created by requiring developers to provide a mix and balance of good quality housing of all types and tenure in line with the Strategic Housing Market Assessment (incorporating the 2008 Local Housing Assessment update).

2. A more balanced mix of housing types will be required. In particular:

- \_ Proposals for 2 and 3-bedroomed bungalows will be supported throughout the Borough;
- \_ Executive housing will be supported as part of housing schemes offering a range of housing types, particularly in Eaglescliffe;
- \_ In the Core Area, the focus will be on town houses and other high density properties.

3. Developers will be expected to achieve an average density range of 30 to 50 dwellings per hectare in the Core Area and in other locations with good transport links. In locations with a particularly high level of public transport accessibility, such as Stockton, Billingham and Thornaby town centres, higher densities may be appropriate subject to considerations of character. In other locations such as parts of Yarm, Eaglescliffe and Norton, which are characterised by mature dwellings and large gardens, a density lower than 30 dwellings per hectare may be appropriate. Higher density development will not be appropriate in Ingleby Barwick.

4. The average annual target for the delivery of affordable housing is 100 affordable homes per year to 2016, 90 affordable homes per year for the period 2016 to 2021 and 80 affordable homes per year for the period 2021 to 2024. These targets are minimums, not ceilings.

5. Affordable housing provision within a target range of 15-20% will be required on schemes of 15 dwellings or more and on development sites of 0.5 hectares or more. Affordable housing provision at a rate lower than the standard target will only be acceptable where robust justification is provided. This must demonstrate that provision at the standard target would make the development economically unviable.

6. Off-site provision or financial contributions instead of on-site provision may be made where the Council considers that there is robust evidence that the achievement of mixed communities is better served by making provision elsewhere.

7. The mix of affordable housing to be provided will be 20% intermediate and 80% social rented tenures with a high priority accorded to the delivery of two and three bedroom houses and bungalows. Affordable housing provision with a tenure mix different from the standard target will only be acceptable where robust justification is provided. This must demonstrate either that provision at the standard target would make the development economically unviable or that the resultant tenure mix would be detrimental to the achievement of sustainable, mixed communities.

8. Where a development site is sub-divided into separate development parcels below the affordable housing threshold, the developer will be required to make a proportionate affordable housing contribution.

9. The requirement for affordable housing in the rural parts of the Borough will be identified through detailed assessments of rural housing need. The requirement will be met through the delivery of a 'rural exception' site or sites for people in identified housing need with a local connection. These homes will be affordable in perpetuity.

10. The Council will support proposals that address the requirements of vulnerable and special needs groups consistent with the spatial strategy.

11. Major planning applications for student accommodation will have to demonstrate how they will meet a proven need for the development, are compatible with wider social and economic regeneration objectives, and are conveniently located for access to the University and local facilities.

12. The Borough's existing housing stock will be renovated and improved where it is sustainable and viable to do so and the surrounding residential environment will be enhanced.

13. In consultation with local communities, options will be considered for demolition and redevelopment of obsolete and unsustainable stock that does not meet local housing need and aspirations.

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

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

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

7. 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.

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

9. 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.

10. 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.

### **Core Strategy Policy 11 (CS11) - Planning Obligations**

1. All new development will be required to contribute towards the cost of providing additional infrastructure and meeting social and environmental requirements.

2. When seeking contributions, the priorities for the Borough are the provision of:

- \_ highways and transport infrastructure;
- \_ affordable housing;
- \_ open space, sport and recreation facilities, with particular emphasis on the needs of young people.

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

#### **Saved Policy EN4**

Development which is likely to have an adverse effect upon sites of nature conservation importance will only be permitted if:-

- (i) There is no alternative available site or practicable approach; and
- (ii) Any impact on the sites nature conservation value is kept to a minimum.

Where development is permitted the council will consider the use of conditions and/or planning obligations to provide appropriate compensatory measures.

#### **Saved Policy EN13**

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
- (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or

In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:

- (iii) It contributes to the diversification of the rural economy; or
- (iv) It is for sport or recreation; or

(v) It is a small scale facility for tourism.

**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.

**SITE AND SURROUNDINGS**

8. The existing hotel is located to the south of the B1264 known as Green Lane in Yarm. Far End Farm bounds the site to the east and the former Saltersgill School to the west. The site can be viewed from the road and has a flat topography, excluding the few landscaped mounds, which exist on the frontage to the site. Beyond the view from the road, behind the existing buildings the land slopes away significantly to Saltersgill Beck. The front landscaped area of the development is dominated by a large expanse of a tarmac car park.

**PROPOSAL**

9. This Section 73 planning application seeks to amend Condition No 7 from outline planning consent reference 11/0549/OUT.

10. The applicant has proposed alternative wording for condition 7 which reads as follows:-

“Work shall be carried out in accordance with the Phasing Plan drawing number 1017/010 and the related Phasing Bar Chart both referred to in the Section 106 Agreement unless otherwise first agreed in writing by the Local planning Authority”.

In conjunction with this alternative wording, a new Section 106 Agreement to include phasing is proposed. This will include additional obligations on the applicant including:

- a. The phasing shall be carried out in accordance with drawing number 1017/010 and the related phasing schedule.
- b. Block 1 of the hotel (Phase 4) shall be commenced no later than receipt of all of the monies for the sale of the housing land.

The obligations contained in the current Section 106 Agreement will remain covering Footpath and Cycle Route Contribution (£154,000); Car Park Contribution (£100,000) and a Local Labour Agreement.

## **MATERIAL PLANNING CONSIDERATIONS**

11. In terms of the 2011 outline consent it was accepted by the Council that in order to facilitate the provision of a 5\* hotel, investment from residential development will be required. It should be noted that as part of the submission the applicant stated that the costs of the construction of the approved hotel expansion are significantly greater than the likely value yielded from the land value for executive housing. This meant that the scheme did not have the financial ability to readily contribute to all the Council's aspirations for financial contributions from the new development, such as affordable housing, and also fund the hotel expansion. Given the residential element of the proposal was viewed as an 'enabling development' only and in order to provide comfort for the Council that ultimately the desired objective of the provision of a 5\* hotel is delivered for the benefit of the Borough a phasing condition (number 7) was imposed intended to prevent the development of the housing exclusively of the hotel.

12. The planning application was accompanied by a Planning Statement which stated that it was accepted by the applicant that the 'executive' housing component of the proposed Tall Trees development should not occur independently to that of the hotel expansion but the ability to redevelop the hotel cannot happen without the financial contribution that is to be made by the development and sale of the executive housing plots and the development would adopt a phased approach. Corresponding phases would be undertaken between both the hotel and the 'executive' housing.

13. 'Enabling development' is a development proposal that is contrary to established planning policy and in its own right would not be permitted. Such a proposal may however be allowed where it will secure a proposal of significant benefit to the Borough i.e. the provision of a 5\* Hotel.

14. Enabling development typically seeks to subsidize the cost of a development of significant benefit, and the justification for allowing the enabling development lies in the over-riding benefit to be derived from the implementation of the principal proposal which otherwise would have little prospect of being carried out.

15. However there is a strong public interest in ensuring that the detriment cannot be caused without a compensating benefit being put in place and therefore it was considered appropriate for a planning condition to be imposed. The condition was as follows: -

*Condition 7 "No work shall commence on site until a phasing plan has been submitted to and approved in writing by the Local Planning Authority to clearly illustrate corresponding phases to be undertaken between the hotel (as approved by planning permission 04/3905/EIS and associated reserved matters) and the housing hereby approved. Thereafter the development shall be undertaken in accordance with the approved phasing plan with no residential development being commenced in any subsequent phase before the previous phase has been completed and the corresponding phase of the Hotel has been completed, unless otherwise first agreed in writing by the Local Planning Authority. No residential development shall commence until the first phase of the hotel development 04/3905/EIS (or such other permission as may be approved for the hotel development) has been implemented.*

*Reason: To enable the Planning Authority to retain effective control over the development".*

16. However the applicant has now put forward a case that linked phased implementation of the hotel permission alongside the implementation of the residential development (as required by condition 7) would reduce the appeal of the housing site and significantly reduce the marketability

and price of the site to the point that the land will not be saleable with the unintended consequence that the enablement objective will be frustrated. In essence this is because an external purchaser such as the National Housebuilders would have to rely on a third party to undertake the works to the Hotel within set timeframes and this would be beyond the control of the developer of the residential element of the site and would therefore seek a title free of restrictions.

17. The applicant states that he is in “an untenable situation in that he is committed to redeveloping the hotel but restrictions imposed by the Council will at best substantially reduce the value of the land or at worst make it a sale impossible. This will then make the redevelopment unviable and the future of the hotel and the current employees will be grim”

18. It is recognised that phasing restrictions on the consent may from the Housebuilders perspective reduce the appeal of the housing site and reduce the value of the site, however should the development of the housing go ahead on an unrestricted basis then this runs the risk that the hotel is not delivered and the site is redeveloped for housing without any benefits being achieved. It must be recognized that all development involves risk. Economic conditions can change and even the most prudent and experienced developers can fail as a result. Whilst the applicant’s commitment to delivering the Hotel is not questioned a suitable mechanism is required by which there are reasonable prospects that the hotel can be delivered.

19. Other mechanisms can be adopted which in effect require the owner of the development site to enter into a legal agreement to commit to the delivery of the hotel but have a lesser effect on financing issues.

#### Alternative Mechanisms

20. Officers have explored with the applicant the following alternative approaches to seek to ensure the 5\* hotel is delivered.

#### Existing Condition

21. It was envisaged as part of the existing phasing condition that in order to guarantee that the hotel development would be carried out a substantial part of the hotel would have to be constructed before the construction of the housing would be allowed to proceed.

22. As previously stated the applicant as part of the original submission accepted that the housing component of the proposed Tall Trees development should not occur independently to that of the hotel expansion but the ability to redevelop the hotel cannot happen without the financial contribution that is to be made by the development and sale of the housing plots and the development would adopt a phased approach. Corresponding phases would be undertaken between both the hotel and the housing.

23. However the applicant now states that this approach is not appropriate, as the funding from the sale of the land is required to commence the hotel development. If the development of the housing is restricted then funds will not be available to proceed with the hotel. Once the hotel is started then other private funding to complete the development will become available.

#### Building Contract

24. Officers therefore suggested that a building contract be entered into. As part of the original submission the applicant submitted a financial analysis of the costs to develop the hotel redevelopment, which was informed by the tender exercise undertaken in respect of the construction of the initial phases of the hotel. Given this exercise had been undertaken by the applicant it was suggested that the applicant enter into a binding building contract with a building contractor to construct the hotel phases. However the applicant has stated that it is his intention to

redevelop the hotel, under separate trades contracts managed by himself and the contract described above would be an unreasonable restriction as it will substantially increase costs and undoubtedly cause the project to be unviable. The proposed procurement method is similar to that adopted by the applicant when the hotel was originally refurbished and expanded some years ago.

### Escrow Account

25. Officers also put forward the suggestion that in addition to a S106, an escrow account be established. This would require the monies from the sale of the residential land to be held by an independent third party and only released when agreed conditions have been met e.g completion of phases of the hotel.

26. The applicant has stated that this approach is neither appropriate nor acceptable and goes on to say that an escrow account is not appropriate in this type of development. These are quite common where third party funds e.g grants or Council contributions are being used as part of the financing of a development. This gives the donor control over the release of monies. In this instance the applicant states that private finance will provide monies to complete the development. In the opinion of the applicant an escrow account would also cause delay and increased costs due to the process of gaining consent for the release of monies. In addition to the applicant's objections to an escrow account, he states his financial partners in Dubai have stated categorically that they will not under any circumstances enter into a partnership agreement to redevelop the hotel if the Council stipulated that the capital receipts must be lodged in an escrow account. These partners operate in the global financial market and if they withdraw from the project then it will not proceed and as stated by the applicant the future of the hotel and the current employees will be "grim".

### Section 106 Agreement

27. As stated earlier the applicant had provided costs for the construction of all the hotel elements and based on these figures, the construction costs greatly exceeds the likely value of the site for executive housing. However the applicant states the funding from the sale of the housing land is required to commence the hotel development. If the development of the housing is restricted then funds will not be available to proceed with the hotel. Once the hotel is started then other private funding to complete the development will become available.

28. To this end the applicant has submitted this Section 73 planning application to amend Condition No 7 from outline planning consent reference 11/0549/OUT.

The applicant has proposed alternative wording for condition 7, which reads: -

"Work shall be carried out in accordance with the Phasing Plan drawing number 1017/010 and the related Phasing Bar Chart both referred to in the Section 106 Agreement unless otherwise first agreed in writing by the Local planning Authority".

In conjunction with this alternative wording, a new Section 106 Agreement to include phasing will be completed. This will include additional obligations on the applicant including:

- a. The phasing shall be carried out in accordance with drawing number 1017/010 and the related phasing schedule.
- b. Block 1 of the hotel (Phase 4) shall be commenced no later than receipt of all of the monies for the sale of the housing land.

The obligations contained in the current Section 106 Agreement will remain covering Footpath and Cycle Route Contribution (£154,000); Car Park Contribution (£100,000) and a Local labour Agreement.

29. It is considered that revised condition together with the S106 legal agreement will provide the Local Planning Authority with a degree of control over the hotel development. The S106 would oblige the owner of the hotel to develop the hotel improvements in accordance with the phasing



plan attached to the S106. If the owner of the hotel failed to develop the hotel in accordance with the phasing plan/S106 the Council would have to rely on enforcing the S106 via an injunction/specific performance via the courts. It would then depend whether the courts thought it reasonable and therefore the outcome cannot be guaranteed with the potential risk of the housing element going ahead unhindered but subject to discharge of the outstanding conditions related to the outline planning consent and reserved matters application.

30. The applicant has stated that the dependence of a hotel on the residential element is not a one way process. New executive housing alongside a closed and derelict hotel will clearly not be attractive to potential purchasers. The applicant cites the recently approved Wynyard hotel and executive housing development where an integral element of the executive housing and their attractiveness to this particular area of the market is their location adjacent to a 5\* hotel and the facilities and associated leisure and dining offer. Without this potential purchasers will look elsewhere. It is not, therefore, in the Housebuilders interest to build out the executive housing in isolation of the works to the hotel.

31. It should be noted that as part of the coalition government's plans to reform the planning system, Greg Clark MP stated that when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. In particular it is necessary to consider fully the importance of national planning policies aimed at fostering economic growth and employment; maintain a flexible and responsive supply of land for key sectors including housing; consider the range of likely economic, environmental and social benefits; and ensure that they do not impose unnecessary burdens on development. Where relevant these are material planning considerations in the determination of the application.

## **CONCLUSION**

32. Taking into account all the above factors and considerations, in the opinion of the Head of Planning it is considered that the revised condition together with the S106 legal agreement will allow for the Local Planning Authority to retain control over the hotel development, but the delivery will be subject to the normal risks of a volatile economy.

33. It is considered that there have been no material changes in the circumstances relating to the previous decision and there are no new wider fundamental policy implications arising from the details of the variation of the parent planning permission and accordingly the application is therefore recommended for approval subject to conditions and a Section 106 agreement to secure the phasing of the hotel, a local labour agreement and highway mitigation measures.

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

## **WARD AND WARD COUNCILLORS**

**Ward Yarm  
Ward Councillor Councillor A B L Sherris**

**Ward Yarm  
Ward Councillor Councillor Mark Chatburn**

**Ward Yarm  
Ward Councillor Councillor Ben Houchen**

## **IMPLICATIONS**

### **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**

The Town and Country Planning Act 1990.

PPS1: Delivering sustainable development

PPS3: Housing

PPS4: Planning for Sustainable Economic Growth

PPS7: Sustainable development in rural areas

PPS9: Biodiversity and Geological conservation

PPG13: Transport

PPG17: Planning for open space, sport and recreation

PPS22 Renewable Energy

PPS25: Development and Flood Risk

Application numbers 04/3905/EIS, 06/3419/REM , 08/0613/REM and 11/0549/OUT.