

**DELEGATED**

**AGENDA NO 4**

**PLANNING COMMITTEE**

**30th May 2012**

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

**11/2842/EIS**

**Allens West, Durham Lane, Eaglescliffe**

**Outline application for the erection of a residential development comprising 845 no dwellings (Class C3) and a 60 no. Bed Care Home (Class C2) with associated retail, creche and community facilities, landscaping, roads, parking and infrastructure.**

**Expiry Date: 14 February 2012**

### **REPORT UNDER PROTOCOL**

#### **SUMMARY**

1. At the 9th May 2012 Planning Committee Members resolved that they were minded to refuse planning permission for the above development based on concerns in respect of impact of traffic generation; loss of employment; impact on schools and the over provision of a Care Home facility.

#### **PLANNING CONSIDERATIONS**

2. As the decision would be contrary to the recommendation made to committee by the Head of Planning, the Head of Planning and the Head of Legal Services agreed that the Protocol for Decisions Contrary to Officers Recommendation should be invoked to give further consideration to the concerns raised. The determination of the application was deferred and the Protocol requires that the application be reported back to the next Planning Committee for Members to give consideration to any further advice from Officers before making a final determination.

3. A copy of the original Planning Committee report and update report are attached at Appendix 1 and 2.

4. The applicant has submitted correspondence in respect of the concerns expressed by Members in their recent consideration of the application and this is attached at Appendix 3.

#### **Highway Issues**

5. A residential development of the size and nature as proposed at Allen's West would without appropriate mitigation have an adverse impact upon the local highway network. In considering the planning application the Local Authority has a duty to ensure that appropriate mitigation is offered that ensures that following development the highway capacity and free flowing conditions remain at the same level as before development commenced. The Local Authority cannot insist on improvements to the highway that offers betterment to the existing conditions that prevail at the time of the application. In other words the Local Authority is charged with ensuring that the highway

network is no better but no worse than the conditions that prevailed prior to the new development. It was commented at Planning Committee that the existing highway network is under strain and can at times be unpredictable, however the mitigation proposed increases the highway capacity at specific locations so that it is a no worse situation, therefore development traffic is catered for. The congestion that can occur in this area is usually linked to Yarm High Street.

In considering the application the Local Authority must take into account that the site benefits from an extant permission for 500 dwellings and the traffic movements associated with the existing industrial uses. In the current application the existing traffic movements are used to offset to an appropriate level that of the additional 345 dwellings. Any additional traffic must then be mitigated to ensure the 'status quo'. The Local Authority in assessing the application has required the applicant to undertake comprehensive traffic survey's that reflect local conditions and that the mitigation measures that are designed following the assessments are practical and not theoretical.

6. It is considered that the highway impact of the development can be mitigated to an acceptable level by the package of measures as set out in the main report at appendix 1 and summarised below. The measures are wide ranging and include financial contributions to improve the local road and footway/cycleway network, improvements to Allen's West Railway Station, improve bus services and travel plan incentives that include financial contributions towards bus travel for future residents. Following assessment, it has been found that these additional trips can be accommodated on the highway network subject to mitigation.

7. Members raised specific concerns regarding traffic issues that this report seeks to address.

#### A66/Elton Interchange

8. Improvements have been identified at Elton Interchange for the Yarm Back Lane and Darlington Road approaches to the northern roundabout and the Durham Lane approach to the southern roundabout. These works mitigate the increase in traffic from this proposal at this location. It is noted that an increase in traffic movements at the Yarm Back Lane/Darlington Back Lane junction may result from this development. The threshold of trips for junction assessment is 30 2-way trips in any peak hour. This development will not significantly increase movements above this level at this location, hence no assessment is undertaken.

#### A67/Durham Lane/Tesco's roundabout

9. Improvements have been identified to widen the Durham Lane approach to this roundabout. These widening works will increase capacity at this junction and mitigate the development traffic. Traffic surveys have been undertaken of the Greenfield Drive/Butterfield Drive area to identify whether there is a specific problem of through traffic. Survey results indicate that there are few vehicles undertaking this manoeuvre, since mitigation is proposed at the roundabout to increase capacity it is not considered that this development will increase through movements at this location.

#### A67/South View junction

10. The Transport Assessment indicated a proposal to introduce traffic signals at this junction to mitigate the development. It is acknowledged that there is an impact at this location from the proposal at Allen's West, however there is an existing problem of through traffic on South View and the Highway Authority considers that traffic signals could exacerbate this. The additional movements do however need to be mitigated and the principle of the improvements has been agreed, however detailed design is required by the Highway Authority that will look to improve the visibility issues, highway safety concerns, pedestrian movements as well as parking and appropriate consultation will be undertaken. Financial contributions have been secured from the application to fund these mitigation works.

## Yarm High Street

11. In order to mitigate the impact to a no worse situation off street car parking is proposed. A site has been identified and surveys from the Kingsmead estate undertaken on a Saturday indicate that this development needs to provide 17 off street car parking spaces. Based on current estimates the cost of providing this level of off street parking is £155, 833. The trigger point identified is occupation of the 25<sup>th</sup> dwelling, as that is the level of development when the impact is identified.

Delays currently exist at the A67/Yarm Road (Cleveland Bay) traffic signal junction. Theoretical assessments indicate that this junction works within capacity, however, free flowing traffic conditions on occasion do not occur due to the slow moving traffic on Yarm High Street, this leads to the queuing at the junction, hence the mitigation of Yarm High Street is identified.

## Allens West Level Crossing

12. Pedestrian safety was highlighted by Members of Planning Committee as a concern at Allens West level crossing. It is acknowledged that as a result of this development pedestrian movements will increase in this area, however, safety concerns have already been identified by Network Rail with a view to implementing full barriers at the level crossing in 2013. As this has already been identified then it is not expected that this proposal provide mitigation to an existing issue. The developer is however proposing to improve cyclist crossing facilities at the crossing, over and above what has been identified by Network Rail.

It should be noted that for the purposes of this application the highway has been assessed with full barriers at Allens West level crossing that will increase delays. The Highways Agency have assessed the TA and the potential issue of an increase in left turning traffic to the A66 to avoid the queue and have advised that it is acceptable. As the proposed development is in close proximity to the level crossing it is accepted that residents will avoid the times when the barriers are closed to reduce delays to their journeys.

## Highway Safety

13. Highway safety has been fully considered and it is concluded that this development will not materially affect highway safety in the area. Works to the highway are subject to Road Safety Audits as part of the S278 agreement.

## Sustainable Travel Measures

14. The site is close to Allens West railway station, a bus route currently operates along Durham Lane and there are existing footway and cycle links in the vicinity. These current sustainable travel measures enhanced by improvements including a half hourly bus service, bus infrastructure, improvements to Allens West railway station and pedestrian links, a car club and car park for the railway station should encourage the use of alternative forms of transport to the private car. Details are included within the main report at Appendix 1.

## Cycling/Pedestrian facilities

15. As part of the identified mitigation it is proposed to provide cycle links to Yarm Road and Eaglescliffe Railway Station. Specific mention was made at Planning Committee about the alternative link through Albert Road (Black Diamond bridge) being a more direct route. The use of this link was assessed as part of this application, however this requires third party consent and although it is a long term aspirational cycling route for the purposes of mitigating this development, this link cannot be guaranteed, hence the alternative route is identified. Officers will however continue to monitor and should funding be available and the issues be resolved, feasibility will be undertaken on this route.

## Travel Plan

16. The developer has submitted a Travel Plan that goes some way to supporting sustainable travel measures and initiatives, including a £100 incentive per dwelling for sustainable travel. The details are included within the report included at appendix 1.

## Access

17. The proposed accesses on Durham Lane are acceptable and no alternative link to Urray Nook Road is required to be investigated.

18. The Head of Technical Services considers that the Transport Assessment and Travel Plan have demonstrated that sufficient highway improvements and sustainable transport enhancements are proposed to mitigate against the impact of the development. The improvements and associated costs are listed below:

### S278 works

19. New roundabout access along with fourth arm two-way operation of existing roundabout, pedestrian facilities, reduction in speed limit, associated street lighting and closure of redundant accesses. (Cost unknown – outside of this application).

Widening of approaches to improve A66/Elton interchange dumbbell interchange. (£63,100)

Widening of approach to A67/Durham Lane/Tesco roundabout. (£21,117)

Provision of a toucan crossing on Durham Lane (£35,000)

Bus infrastructure (£50,000)

Provision of enhanced on road and off road cycle links towards Yarm Road, (£50,000).

Improved footway/cycleway on existing Public Right of Way (Cost unknown – outside of this application).

### S106 Contributions

20. Works to improve visibility and other improvements at South View (capped at £15,000)

Contribution to Yarm car parking improvements (£155,833)

Contribution to a two year supported bus service (£260,000)

Travel Plan Management and incentives (£215,000)

Contribution towards improvements to Allens West railway station (£44,000)

Contribution towards improvement works to facilitate crossing the railway at Allens West level crossing for cyclists. (£30,000)

21. Travel Plan Measures (above the other identified figure)

Provision of an onsite car club (£50,000)

Provision of a £100 travel plan incentive per dwelling (£85,000).

22. Given the proposal is considered to have demonstrated adequate mitigation against the impact of the proposed development, the Head of Technical Services has no objection subject to appropriate controlling conditions. Therefore it is considered that there would be no demonstrable harm to the highway network as a result of the proposed development.

## Employment Land

23. In respect of loss of employment land Core Strategy Policy CS4 is considered to be relevant to this application. Although the site is not allocated within the Core Strategy or saved policies from the adopted local plan, Policy CS4.7 states:

*'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.'*

24. It is important to note that this policy does not make a distinction between allocated and unallocated sites, therefore all losses of employment land or sites should be justified. In order to determine the application consideration must be given to:

The role of the site in the employment land portfolio;

The availability of alternative commercial floorspace, in terms of quantity and quality;

The ability of the site/premises to provide acceptable standards of commercial accommodation;

25. In assessing the application regard is had to paragraph 22 of the National Planning Policy Framework (NPPF), which states:

*'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose'.*

### Employment Land Portfolio

26. The Council's Employment Land Review (ELR) sets out a balanced portfolio of employment sites to meet the economic development needs for the next 25-years.

27. The Allens West site is discussed in detail in paragraphs 4.49 to 4.52 of Stage 3 of the ELR. This document states that the existing buildings, and a small area of expansion land at the site, should receive policy protection to support continuing employment use. This recommendation reflects the previous mixed use planning consent for the site.

28. It is also important to note that this section of the ELR also states:

*'Other serviced land is available in the locality on an established industrial estate and would be available for immediate development. However, levels of development on serviced industrial estates in the surrounding area have been low. It is therefore likely that demand for Allens West<sup>1</sup> which has limited infrastructure and would require upgrading to serve additional employment development would be limited.'*

29. It is considered that the buildings on the Allens West site fall in to the Council's general employment land supply. Other general employment sites in the area include Uray Nook (20ha) and Durham Lane Industrial Estate (40ha). These sites were consulted on as potential housing sites within the Council's Core Strategy Review Issues and Options in summer 2011.

### Allens West Employment Land Assessment

30. The applicant has submitted an Employment Land Assessment which considers the retention of the Allens West site for employment purposes.

In summary this identifies, amongst other things, that:

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The holding company is in administration and the site has liabilities of about £17million; The accommodation on the site is poor quality, with asbestos present in many buildings. The cost to refurbish buildings on the industrial estate is about £7.88million (excluding VAT). There is no prospect of funding from lending institutions, and this renovation would not improve rents for the buildings; vacancy of the estate has increased, and rents for the properties are low. There is sufficient employment premises within Stockton Borough to meet current and future requirements.

31. A detailed survey of the buildings on the site has been submitted which estimates that renovation of the buildings would cost £7.88m (excluding VAT) with cost estimates for renovation of individual buildings ranging between £85k - £1.7m.

32. The statement explains that these renovations would extend the life of each building, rather than make them more attractive to occupiers. Therefore the rents for the buildings are expected to remain the same, which creates doubts that the renovations could be viable.

33. On face value the renovations could cost about £17per sq.ft of floorspace, based on the development having 475,000sq.ft of accommodation. Given the current rent this could prevent such a renovation being viable.

#### Employment sites and premises

34. The statement also provides data on the stock of industrial floorspace within Stockton on Tees Borough, and the amount of units taken up in the last three years. The applicant states that there is enough available floorspace for 7-years provision, based on current take up rates. It is stated that a 2-year supply is generally regarded as an appropriate level of supply. Using these figures the loss of employment floorspace would result in the floorspace provision reducing to a 5.5-year supply.

35. Even if a different method of calculating the vacancy rate of industrial premises across Stockton on Tees Borough is used it is considered that there is sufficient supply of alternative employment units, within Stockton Borough.

36. From the evidence submitted in the employment land assessment the buildings on the Allens West site require significant investment. It is unlikely that this investment would be recouped by the rent on the industrial floorspace alone. Without this investment the site would require public sector funding or subsidy from other more profitable parts of the mixed-use development. It is doubtful that this could realistically happen. Furthermore given the fall in demand for commercial units over recent years, the support from the Council's Regeneration and Economic Development section, and the problems with the quality of the buildings it is considered that the buildings could be released from employment use.

37. In simple terms the issues which have been raised concerning the dispute between the owners of the site and existing lessee's are civil matters between landlord and tenant. With relation to the material planning considerations on employment land these relate to the material weight that can be given to the need to retain the employment land and its impact on the local economy against the benefits of allowing the development to proceed. Therefore as indicated above it is considered that there are no sound planning grounds to seek to retain the employment land and prevent the proposed development.

#### Schools

38. In terms of impact on schools, the Council has a statutory duty to ensure that sufficient school places are available to meet the needs of pupils resident in the Borough. If, as a result of a new housing development, pupil numbers in any part of the Borough are likely to rise beyond the capacity of schools in that area, the Council would be obliged to provide additional school places. This would require capital investment that is not fully supported by government allocations. In

these circumstances it is reasonable to expect a developer to contribute to meeting those costs, and the Council would aim to secure an agreement that financial contributions would be made in accordance with Section 106 of the Town and Country Planning Act 1990.

39. The applicant has agreed to enter into a Section 106 Agreement in accordance with the following Heads of Terms:

*A commuted lump sum of £1,560,000 indexed for the provision of additional school places within the Authority, payment of developer contributions should be made in five equal tranches at commencement of development, the occupation of the 200<sup>th</sup> dwelling, the occupation of the 400<sup>th</sup> dwelling, the occupation of the 600<sup>th</sup> dwelling and the occupation of the 800<sup>th</sup> dwelling.*

40. The contribution identified for this application is based upon the current formula to determine school places as a result of new build development. In addition the Council has recently completed an exercise to finalise future pupil number predictions across the Borough. This has identified a number of areas where a growth in pupil places will be required to support future demand. Eaglescliffe was identified as one of those areas notwithstanding this planning application. As a result an education capital programme has been developed to extend and refurbish a number of education facilities to cope with the anticipated growth. The Council's Cabinet will consider that proposed programme at its meeting in June. The recommendations associated with the Eaglescliffe area consider both the anticipated new housing numbers and the natural background growth in pupil numbers. The recommendation will suggest that one of the existing facilities in Eaglescliffe be expanded to cope with the additional demand. If Cabinet accept that principle then the practicalities of which establishments are grown will be considered and developed in consultation with appropriate Cabinet Members and Ward Councillors where appropriate. The Head of Technical Services in consultation with the Head of Schools, Children & Complex Needs and the Head of Finance & Assets remain satisfied that the contribution associated with this development will be sufficient to support the already identified need for investment through the Capital Programme to satisfy pupil place numbers. There is no identified need for a contribution towards secondary school provision.

#### Care Home

38. With regard to the issue of over provision of Care Home Facilities, the applicant has confirmed that the proposed care home was to be built in the later phases of the development and therefore recognise that needs at that time will be different to those experienced now. However having had further discussions with the Council's special housing needs advisor who has highlighted the greatest current need is that of extra care facilities, the applicant has confirmed that they propose to substitute an extra care facility in lieu of the care facility currently indicated on the master plan.

39. It should be noted that both the care home and extra care home fall within the same Use Class and in planning terms are treated, as the same type of development and the details of the facility would be the subject of further discussions as part of any reserved matters submission.

#### Other Matters

40. In respect of crime prevention, the proposed development does not contain any unusual design feature or characteristics which give rise to concerns of creating environments more susceptible to crime.

41. In terms of the overall levels of policing in the Community, this is a matter for the Police Authority and the future Police and Crime Commissioner.

42. The applicant has also confirmed that they are willing to enter into a Local Labour Agreement and indicated that based on current estimates, the number of direct jobs created should exceed 3,000 over the life of the development.

## **CONCLUSION**

43. The Officer's recommendation remains as previously set out in the report and update report made to Members at the Planning Committee on 9th May 2012 that the application be granted conditional Approval subject to the applicant entering into a Section 106 Agreement in accordance with the Heads of Terms and the conditions as amended. An additional Heads of Terms would be included to require the developer to enter into a local labour agreement.

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

## **WARD AND WARD COUNCILLORS**

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

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

**Ward**                      **Eaglescliffe**  
**Ward Councillor**      **Councillor Phillip Dennis**

## **IMPLICATIONS**

### **Financial Implications:**

As Report

### **Legal Implications:**

Circular 03/2009: Costs Awards in Appeals and other Planning Proceedings recognises that planning authorities are not bound to accept the recommendations of their officers. However if officer's technical or professional advice is not followed authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so costs may be awarded against them.

The circular also provides that reasons for refusal should be complete, precise, specific and related to the application. Planning authorities will be expected to produce substantial evidence at appeal stage to substantiate each reason for refusal. Vague and generalised assertions which are unsupported by objective analysis are likely to be deemed unreasonable behaviour and costs awarded. The Secretary of State requires substantial, realistic and specific evidence to support reasons for refusal.

Should members seek to refuse the application on the concerns outlined on 9 May sound and substantial evidence as outlined above must be produced to substantiate those grounds.

### **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.

Stockton on Tees Local Plan Adopted Version June 1997

Core Strategy Development Plan Document March 2010

Supplementary Planning Document 3: Parking Provision for New Developments

Supplementary Planning Document : Open Space, Recreation and Landscaping

Supplementary Planning Document 6 : Planning Obligations

Planning Application number 08/0567/EIS