

# Planning Committee

A meeting of Planning Committee was held on Wednesday, 12th December, 2012.

**Present:** Meeting:-

Cllr Robert Gibson (Chair); Cllr Jim Beall, Cllr Mark Chatburn, Cllr Carol Clark (Vice Cllr Paul Kirton), Cllr Michael Clark (Vice Cllr David Rose), Cllr David Coleman (Vice Cllr Mick Stoker), Cllr Gillian Corr, Cllr Phillip Dennis (Vice Cllr Andrew Sherris), Cllr Alan Lewis, Cllr Ken Lupton, Cllr Ray McCall and Cllr Norma Stephenson.

Site Visit - 11th December 2012:-

Cllr Robert Gibson (Chair); Cllr Jim Beall, Cllr Michael Clark (Vice Cllr David Rose), Cllr Gillian Corr, Cllr Alan Lewis, Cllr Ken Lupton, Cllr Andrew Sherris and Cllr Norma Stephenson.

**Officers:** Meeting:-

C Straughan, B Jackson, S Grundy, R McGuckin, P Shovlin (DNS); J Butcher, P K Bell (LD).

Site Visit - 11th December 2012:-

B Jackson, S Grundy, P Shovlin (DNS); J Butcher(LD).

**Also in attendance:** Meeting:-

Cllr Ken Dixon, Cllr Ross Patterson, Cllr Mrs Maureen Rigg, applicants, agents and members of the public.

Site Visit - 11th December 2012:-

applicant, agent and members of the public.

**Apologies:** Meeting:-

Cllr Jean Kirby, Cllr Paul Kirton, Cllr David Rose, Cllr Andrew Sherris, Cllr Mick Stoker and Cllr Steve Walmsley.

Site Visit - 11th December 2012:-

Cllr Mark Chatburn, Cllr Jean Kirby, Cllr Paul Kirton, Cllr Ray McCall, Cllr David Rose, Cllr Mick Stoker and Cllr Steve Walmsley.

## **P** **77/12**      **Evacuation Plan**

The evacuation plan was noted.

## **P** **78/12**      **Declarations of Interest**

Cllr Chatburn declared that he considered himself pre - determined in respect of agenda item 6 - 12/2564/COU - 111 High Street, Yarm - Revised application for conversion of existing dwelling into dental practice. Demolition of small single storey rear annexe and covered area, construction of new single storey rear extension. Raising of front door head height and item 7 - 12/2565/LBC - 111 High Street, Yarm - Listed building consent for conversion of existing dwelling into dental practice. Demolition of small single storey rear annexe and covered area, construction of new single storey rear extension, raising of front door head height as he had commented on the application.

## **P** **79/12**      **Minutes**

The minutes of the meeting held on 14th November 2012 were confirmed and

signed by the Chair as a correct record.

**P 12/1546/OUT**  
**80/12 Mount Leven Farm, Leven Bank Road, Yarm, TS15 9JJ**  
**Outline planning consent with all matters reserved except for means of access, for development of a retirement village including related leisure and social facilities and infrastructure.**

Prior to the meeting Members visited the site.

Consideration was given to a report on planning application -12/1546/OUT - Mount Leven Farm, Leven Bank Road, Yarm, TS15 9JJ - Outline planning consent with all matters reserved except for means of access, for development of a retirement village including related leisure and social facilities and infrastructure.

Outline planning consent was sought for a retirement village that would consist of 350 retirement dwellings and a 100 bedroom care home. The application sought to establish only the principle of the development and the means of access into the site, all other matters were therefore reserved for a future submission.

The application site formed part of the Mount Leven Farm site, which encompassed a group of former farm buildings and a series of agricultural fields. The existing group of buildings sat on the plateau close to the valley edge and was probably most visible from Leven Bank Road. The site itself was fairly level with only small fluctuation across the site as a whole, before sloping down (from south to north) as the land met with the River Tees or steeply rising to the east as it met the Leven Valley. To the west of the site lay a variety of residential properties which formed the edge of the more modern and suburban properties of Yarm. To the south of the site also lay a small group of residential properties.

In the early 1990's two outline planning applications were submitted for a residential development. The first application sought permission for residential development alongside a new roundabout (ref; 90/1690/P), while the second sought outline permission for residential development alongside leisure / recreational uses (ref: 91/0585/P). These applications were refused on the basis that the additional access would have created an undue hazard and also that the Cleveland Structure Plan identified the area as a substantial landscape area which had also been identified as a green wedge between Yarm and Ingleby Barwick. In dismissing the appeal the inspector had taken the view that the different characters of Yarm and Ingleby Barwick required adequate separation to prevent their visual coalescence, although it was considered that a new junction of an appropriate design could be accommodated to serve the development.

Whilst it was recognised that there were some benefits to the proposed development in terms of boosting the supply of housing, addressing some needs of the Tees Valley's growing older population, the wider public benefits resulting primarily from increased public access along the Leven Valley and the economic benefits the scheme would bring to the area in terms of investment and job creation. However, in weighting up these policy constraints and merits

of the proposed development would offer, the Planning Officer considered these would be sufficient enough to outweigh these conflicts with the adopted development plan policies. Furthermore insufficient information had been provided to satisfactorily demonstrate that there would be no significant harm to highway safety and this formed an additional reason for refusal at this stage.

The consultees that had been notified and the comments that had been received were detailed within the report.

With regard to publicity notification letters were sent to the surrounding residents and local press advertisements being made. Due to the vast number of comments received the names and addresses were attached to the report and the various comments were set out in summary within the report.

With regard to planning policy where an adopted or approved development plan contained relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that an application for planning permissions should be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan was the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan.

Section 143 of the Localism Act came into force on the 15th January 2012 and required the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority should have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

The planning policies that were considered to be relevant to the consideration of the application were detailed within the report.

The material planning considerations of the application were compliance with planning policies and the impacts of the proposed development on; the vitality and viability of defined centre; the visual amenity/character of the area; the setting of scheduled ancient monuments; levels of residential amenity; highway safety; features of archaeological interest; flood risk; protected species; crime and anti-social behaviour and other matters arising out of consultation responses.

The Planning Officers report concluded that clearly there were many benefits to the proposed development in terms of the requirements of the NPPF in boosting the supply of housing, addressing some needs of the Tees Valley's older population, the wider public benefits resulting primarily from increased public access along the Leven Valley and the economic benefits the scheme would bring to the area in terms of investment and job creation. However, in considering all the material planning considerations of the application it was considered that significant weight should still be attached to planning policy and the harm that would arise out of the urbanisation of the land, the coalescence of the settlements of Ingleby Barwick and Yarm and the open character of the site and green wedge.

In weighing up these policy constraints against the economic benefits of the scheme, it was considered that despite the benefits and merits that the proposed development would offer, these would not be sufficient enough to outweigh the conflicts with the adopted development plan policies. Furthermore insufficient information had been provided to satisfactorily demonstrate that there would be no significant harm to protected species or highway safety and these form separate reasons for refusal at this stage. The proposed development was therefore recommended for refusal.

Members were presented with an update report that outlined that since the original report to Members further consultation responses had been received from the Highways Agency, the Head of Technical Services, Natural England and Tees Valley Wildlife Trust in response to further information submitted by the applicant, This had resulted in the removal of the reason for refusal no.2 (protected species).

Members also noted there was some revised wording to the highways reason for refusal in view of the Highways Agency's revised position, so reference to the strategic road network was removed.

13 Additional letters of support had been received, no new issues had been raised which hadn't already been covered within the original report and therefore all the material planning considerations remained as set out within the original report, unless indicated in the update report. There were some errors in respect of comments received from members of the public which were corrected within the update report.

The applicant, agent for the applicant, supporters, objectors, Councillor Patterson were in attendance at the meeting and were given the opportunity to make representation.

The objectors comments could be summarised as follows:-

- \* 90 % of local residents are against the development
- \* The Leven Valley is a beautiful area that is well used and this development would ruin it
- \* The Leven Valley is protected
- \* This development would introduce urban sprawl to Ingleby Barwick and Yarm
- \* The development would stop migrating deer along the Leven Valley
- \* Agree with the Planning Officers recommendations
- \* The applicants travel plan is economical with the truth
- \* If this outline application is approved another application will replace this one
- \* The applicants proposed sewage system is not adequate
- \* Giant Hogweed and Japanese Knotweed would be a problem
- \* There is nothing wrong with the principle of the development it is just in the wrong location
- \* Confidence in Stockton Council Planning Committee to refuse the application
- \* There is no impact assessment for the building of the bridge
- \* How would service vehicles access the bridge
- \* How would the equipment to build the bridge access the site
- \* There would be issues of childrens safety, disabled access and possible anti social behaviour on the bridge
- \* Who will be responsible for maintenance of the bridge

- \* A mini national park is being planned for the Leven Valley / Tees Valley
- \* Tees Heritage Park maybe given further funds in the future and there is no need to look to developers for funding
- \* The site is green wedge, development would bring Yarm and Ingleby Barwick closer together and contrary to policies EN13/HO3/CS10/NPPF
- \* The land is a greenfield site
- \* Proposal is out of keeping with the area
- \* The site is within the Tees Heritage Park
- \* Impact on Yarm High Street in terms of parking and traffic bottlenecks
- \* General increase in traffic within the surrounding area
- \* Accident record data is inaccurate
- \* Further traffic onto Leven Bank, increased danger from proposed roundabout
- \* Impact on wildlife and wildlife habitats / Protected species are present in the area
- \* The site is outside of the boundary for development and is not included in the draft LDD which identifies sites for housing development
- \* Yarm does not have the infrastructure to deal with additional houses
- \* Loss of agricultural land
- \* The development would increase the risk of flooding
- \* The site is unsustainable
- \* The proposed bridges would provide opportunities for crime and antisocial behaviour in the Yarm / Ingleby Barwick areas
- \* More air, light and noise pollution
- \* Drainage methods not deemed appropriate / inadequate infrastructure
- \* The development will create a segregated community
- \* There are several pipelines running through the proposed development plot

The supporters of the application comments could be summarised as follows:-

- \* The development is a good idea and better than what could be built there
- \* The development will provide jobs and houses
- \* There is a need for this type of retirement development
- \* The application should be approved
- \* This will be a quality development for old people and not a care home
- \* This sort of development is common place in America
- \* The people of the development will have easy access to doctors / shops / restaurants and cafes
- \* It will be lovely for the elderly
- \* There are more elderly in the UK and the numbers will keep rising

The applicant and agent made the following comments:-

- \* Every project that the applicant has been involved in has been a success
- \* This is the first project of this type in the country
- \* Other villages of this type will be built in the UK
- \* The side of Leven Valley that is in ownership of the applicant has been preserved but the other side where Ingleby Barwick is has been built on
- \* The business group run by the applicant is very successful
- \* Current guidance from central government suggests the application should be approved
- \* This will be a flagship development for the Borough
- \* Ecological issues have now been resolved
- \* The bridge over the river Leven will be part of the 106 agreement

- \* There will be no significant impact on the green wedge
- \* The development will give £120 million investment
- \* 40% of the jobs will be local
- \* It will help address the Council housing figures
- \* There will be an economic ripple effect
- \* The development will not ruin Yarm
- \* The development is low density

Members were then given the opportunity to ask questions and make comment on the application and these could be summarised as follows:-

- \* The development is contrary to the Council's planning policy documents
- \* The idea of the development is a good but it is in the wrong place
- \* The green wedge needs strengthening and protecting not developing
- \* If the application is approved the bridge is not needed
- \* How is over 55's housing policy monitored?
- \* Not sure this type of development is best for the elderly
- \* People want care in their own community
- \* The development would give choice to people
- \* Support development
- \* The positives outweigh the negatives
- \* At the last Committee a development for a change of use in the same area was refused and this application should be treated the same

In response to the question about the over 55's housing policy the Planning Officer outlined that this was common place in these sort of developments and would be covered by a planning condition or in a Section 106 Agreement.

A vote then took place and the application was refused.

RESOLVED that planning application 12/1546/OUT be refused for the following reasons:-

Green Wedge/landscape character:-

1. The proposed development represents an unjustified incursion into the Leven Valley green wedge and by virtue of its scale and nature would have an unacceptable detrimental impact on the open character and visual amenity of the area and thereby harm the separation that exists between the settlements of Ingleby Barwick and Yarm, contrary to saved policies EN7 and H03 of the Local Plan and policies CS3(8) and CS10(3) of the Core Strategy.

Highway Safety:-

2. The applicant has failed to provide sufficient information to satisfactorily demonstrate that the proposed development would not have a detrimental impact on highway safety and the free flow of traffic to the Local Highway Network or that the impact could be satisfactorily mitigated to the satisfaction of the Local Planning Authority and is therefore contrary to guidance within policy CS2 of the Core Strategy (1&2) and paragraph 32 of the National Planning Policy Framework (NPPF).

**P 12/2564/COU**

**81/12 111 High Street, Yarm,  
Revised application for conversion of existing dwelling into dental practice. Demolition of small single storey rear annexe and covered area, construction of new single storey rear extension. Raising of front door head height.**

Consideration was given to a report on planning application 12/2564/COU - 111 High Street, Yarm - Revised application for conversion of existing dwelling into dental practice. Demolition of small single storey rear annexe and covered area, construction of new single storey rear extension. Raising of front door head height.

The revised planning application sought planning permission for conversion and change of use of the existing dwelling into a dental practice (D1 Use Class) at No 111 High Street, Yarm. The scheme also included the demolition of a small single storey rear annexe and covered area, and the construction of a new single storey rear extension. Within the front elevation, the works included the raising of the front door head height by approximately 29 cm and the installation of a new timber access door.

The application site was a three storey, mid terraced, Grade II Listed Building located along Yarm High Street. The property was adjoined by No 107-109 to the south (retail/food shop) and No 113 to the north (retail/clothes shop) with the highway (High Street) to the front (east). The residential properties at 1, 2 and 3 Holmedene (which were located within the Protected Residential Zone) face onto the rear of the application site and courtyard area.

The main planning considerations with respect to the application were the principle of development in relation to the relevant Development Plan policies, the impact on the character and appearance of the existing listed building and surrounding Conservation Area (including the setting of Listed Buildings), the impact on the amenity of existing and future occupiers of neighbouring properties, and the impact on highway safety (and car parking provision), the impacts of the site location within a Flood Zone, and any residual matters.

27 written objections had been received. An objection had also been received from Yarm Town Council. These objections primarily related to the impact on the character and setting of the existing building and surrounding area, the impact on the amenity of neighbouring properties (particularly the properties within Holmedene) and the principle of development (loss of residential use).

6 written representations of support had been received, relating to the positive impact of the proposed development which would bring an empty building back into use.

The Council's Historic Buildings Officer had no objections to the scheme in terms of the impact on the character and appearance of the building and the courtyard. Tees Archaeology had no objection to the scheme. The Head of Technical Services had no objections in terms of highway safety and Landscape subject to the retention and supplementation of additional buffer planting. The Council's Environmental Health Unit had no objections in principle to the scheme.

Consultees were notified and the comments that had been received were detailed within the report.

With regard to publicity 27 written objections had been received and their addresses and a summary of their objections were detailed within the report.

With regard to planning policy where an adopted or approved development plan contained relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that an application for planning permissions should be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan was the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan.

Section 143 of the Localism Act came into force on the 15th January 2012 and required the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority should have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

The planning policies that were considered to be relevant to the consideration of the application were detailed within the report.

The Planning Officer considered that the scheme did not lead to an unacceptable loss of amenity, did not have a significant adverse impact on the character and setting of a listed building and the surrounding Conservation Area. It was also considered that the proposal would not lead to an adverse loss of highway or pedestrian safety or impact on flooding. It was therefore considered that the proposal accorded with the relevant Development Plan policies.

The applicant and objectors were in attendance at the meeting and were given the opportunity to make representation.

The objectors comments could be summarised as follows:-

- \* There will be an impact on residential amenity
- \* The private properties break up the commercial properties
- \* There is an issue with regard to access to the courtyard
- \* There will be an increase in noise
- \* The historic yard is a positive aspect of Yarm and should be preserved
- \* The property is not suitable for a dentist
- \* The development will affect the quality of neighbours lives
- \* The yard is a communal area and should not be changed

The applicants comments could be summarised as follows:-

- \* The building is empty and run down at the moment
- \* The development is an investment in the High Street
- \* This will provide an additional facility in Yarm



- \* There has been some unfounded fears
- \* The replacement building is in the same footprint as the old building
- \* The development will be sympathetic with its surroundings

Members made the following comments:-

- \* The property is not empty and run down
- \* The issue of Core Strategy Policy 5 (CS5) has not been addressed in the report
- \* Is there a rear access for the applicant?
- \* Is the dentist open to all people?
- \* Can we have clarification that the roof levels are acceptable?

The Development Services Manager outlined that with regard to the Core Strategy Policy 5 (CS5) the application site was not within the zone in Yarm where the policy was trying to retain residential properties and the policy documents needed to be read a whole.

The Development Services Manager also outlined that there was no rear access for the applicant and because of the distance to the neighbouring properties the roof levels were acceptable. The applicant also responded that the dentist would be open to all people.

A vote then took place and the application was approved.

RESOLVED that planning application 12/2564/COU be approved subject to the following conditions and informatives below:-

1. The development hereby approved shall be in accordance with the following approved plan(s);

Plan Reference Number	Date on Plan
SBC0001	26 October 2012
001 REV A	22 November 2012
002 REV A	22 November 2012
003 REV A	22 November 2012
004	26 October 2012
005	26 October 2012

2. Supplementary Soft Landscaping Scheme

Notwithstanding the submitted information and prior to the commencement of the development of the proposed single storey rear extension, full details of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works for new evergreen shrub along the northern elevation of the proposed single storey extension where the existing picnic bench is to be removed and where any of the existing planting is damaged or necessarily removed during construction works. The planting scheme shall be carried out in accordance with the recommended species and stock size that are detailed within Informative 01 of the decision notice. The agreed soft landscaping scheme shall be implemented on site within the first planting season following the substantial completion of the single storey extension hereby approved.

The detailed planting plan should indicate plant species, numbers, densities, locations, stock size and type. All works shall be carried out in accordance with the approved plans. The scheme shall be completed in the first planting season following commencement of the development and shall be maintained to a minimum height of between 2m and 2.2m from the given ground.

All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan.

Any vegetation within a period of 5 years from the date of from the date of completion of the total works that is dying, damaged, diseased or in the opinion of the Local Planning Authority is failing to thrive shall be replaced by the same species of a size at least equal to that of the adjacent successful planting in the next planting season.

### 3. Finishing colour of proposed access door

Notwithstanding the submitted information and prior to the proposed access door facing onto the High Street being installed, the final finishing materials and colour scheme for the proposed access door shall be submitted to and agreed in writing with the Local Planning Authority. The door shall then be installed in accordance with the agreed details.

### 4. Recording of a heritage asset through a programme of archaeological works.

i) No development shall commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions including;

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation.

ii) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (i).

iii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (i) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

### 5. Materials to match existing building

All new works, and works of making good to the retained fabric, whether internal

or external, shall be finished to match the adjacent materials/finishes with regard to the methods used and to material, colour, texture and profile. The materials shall be completed in accordance with those specified on plan 002 REV A (dated 22nd November 2012).

#### 6. Control of hours of use

The premises to which this permission relates shall not be open for business outside the hours of 0900 hours and 1730 hours Monday to Friday, nor at any time on Saturdays, Sundays or Bank Holidays.

#### 7. Restriction of use

Notwithstanding the provisions of the Town and Country Planning Use Classes Order (General Permitted Development) Order 2005 (or any order revoking and re-enacting that order), the development hereby approved shall be used specifically for a dental practise and for no other use within the D1 Use Class.

#### 8. Layout of scheme in accordance with agreed details.

The proposed scheme shall be carried out in accordance with the approved plans including the agreed floor plan layout of the building and the siting of Surgery 1 (within the ground floor single storey rear extension) and Surgery 2 (first floor level), as indicated on approved plan 002 REV A (dated 22nd November 2012).

#### 9. Hours of construction

All construction operations including delivery of materials on site shall be restricted to 0800 – 1800 hours on weekdays, 0900 – 1300 hours on a Saturday and no Sunday or Bank Holiday working.

### INFORMATIVE OF REASON FOR PLANNING APPROVAL

#### General Policy Conformity

The proposal has been considered against the policies and documents identified below. It is considered that the scheme accords with these policies and that the principle of development is acceptable. It is considered that the scheme does not lead to an unacceptable loss of amenity for existing or future occupiers of neighbouring land users in terms of outlook, overlooking, overbearing, overshadowing and noise disturbance. It is also considered that the proposed use does not have a significant adverse impact on the character and setting of a listed building and the surrounding Conservation Area. It is further considered that the proposed scheme will not lead to an adverse loss of highway or pedestrian safety. The proposed scheme is also considered to address any issues of flooding. There are no material planning considerations, which indicate that a decision should be otherwise.

The following policies of the Adopted Core Strategy Development Plan Document (March 2010), the Saved Policies from the Adopted Stockton on Tees Local Plan (1997) and associated documents are considered to be relevant to the determination of this application

Core Strategy Policy 2 (CS2): Sustainable Transport  
Core Strategy Policy 3 (CS3): Sustainable Living  
Core Strategy Policy 10 (CS10): Environmental Protection and Enhancement

Saved Policy EN24 - Conservation Areas  
Saved Policy EN26 – Alterations, extensions to a Listed Building  
Saved Policy EN28 – Setting of Listed Buildings

National Planning Policy Framework

Informatives to applicant;

Informative 01; recommended ever green species

In accordance with condition 02 (condition 03 of the decision notice) and with respect to the requisite supplementary planting on the north side of the single storey rear extension, evergreen shrub planting is recommended.

All the existing planting shall be protected during the works and any damaged planting must be replaced once the works have been complete with details to be agreed in accordance with the requirements of condition 02. It is likely some planting may need to be removed to carry out the works that should be providing with replacement planting. The existing bench should be removed and the area given over to planting to increase the effectiveness of the planting scheme.

This replanting should be completed using large container stock of 10-15 litre size stock and include some large evergreen shrub species with an upright habit such as Photinia x fraseri 'Red Robin', Prunus laurocerarsus 'Herbergii' (Laural) and Viburnum tinus 'Eve Price'. A good depth of topsoil of at least 450 mm must be provided to assist with plant growth.

Informative 02; Tree Protection Informative; prohibited works to retained ornamental pine tree within Root Protection Zone (taken as the canopy spread in this instance)

In order to ensure both tree and root protection of the existing ornamental pine tree adjacent to the siting of the proposed single storey extension, sufficient space must be assigned for all site activities; the following works should not take place within the Root Protection Zone (to be taken as the canopy spread) of the adjacent tree under any circumstances;

- \* Storage, movement or working of equipment, signage, structures, barriers, materials, components, vehicles or machinery within the canopy spread.
- \* Fires being lit or allowed to burn within 10m of the canopy spread.
- \* No mixing of cement or use of other materials or substances shall take place within the Root Protection Zone or within such proximity where seepage or displacement of those materials or substances could cause them to enter the Root Protection Zone.
- \* No unauthorised trenches shall be dug within the Root Protection Zone (taken to be the canopy spread).

The Local Planning Authority has implemented the requirements of the National Planning Policy Framework.

**P  
82/12**

**12/2565/LBC**

**111 High Street, Yarm**

**Listed building consent for conversion of existing dwelling into dental practice. Demolition of small single storey rear annexe and covered area, construction of new single storey rear extension. Raising of front door head height.**

Consideration was given to a report on 12/2565/LBC - 111 High Street, Yarm - Listed building consent for conversion of existing dwelling into dental practice. Demolition of small single storey rear annexe and covered area, construction of new single storey rear extension and raising of front door head height.

The revised application sought Listed Building Consent for the conversion of the existing dwelling into a dental practice (D1 Use Class) and the demolition of a small single storey rear annexe and covered area, and the construction of a new single storey rear extension. Within the front elevation, the works included raising of the front door head height by approximately 29 cm and the installation of a new timber access door.

The application site was a three storey, mid terraced, Grade II Listed Building located along Yarm High Street. The property was adjoined by No 107-109 to the south (retail/food shop) and No 113 to the north (retail/clothes shop) with the highway (High Street) to the front (east).

The main heritage considerations were therefore whether or not the works would cause harm to the appearance, setting or significance of the grade II listed.

17 written objections had been received. An objection had also been received from Yarm Town Council. These objections primarily related to the impact on the character and setting of the existing building and surrounding area, the impact on the amenity of neighbouring properties (particularly the properties within Holmedene) and the principle of development (loss of residential use).

3 written letters of support had been received, relating to the positive impact of the proposed development which would bring an empty building back into use.

The Council's Historic Buildings Officer had raised no objections to the scheme in terms of the impact on the character and appearance of the building and the courtyard. Tees Archaeology had also raised no objection to the scheme.

A representation had been received from Councillor Sherris commenting that the proposed extension would project into a historic yard and would be over-bearing and intrusive for the occupant of No 1 Holmdene. An objection had been received from Councillor Chatburn relating to the principle of development, the impact on neighbouring properties and the character of the area.

It was considered that the scheme would have no adverse impact on the character of the listed building and there were no architectural features that

would be adversely affected as result of the proposal. The proposal satisfied the principles of the NPPF and therefore the proposals were considered acceptable.

The consultees that had been notified and comments that had been received were detailed within the report.

With regard to publicity 17 written objections had been received and their addresses and a summary of their objections were detailed within the report.

With regard to planning policy where an adopted or approved development plan contained relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that an application for planning permissions should be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan was the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan.

Section 143 of the Localism Act came into force on the 15th January 2012 and required the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority should have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

The planning policies that were considered to be relevant to the consideration of the application were detailed within the report.

The Planning Officers report concluded that the proposals by virtue of the size, location, scale and massing would not have a significant impact on the appearance, setting or significance of the Grade II listed building or to the amenities of the wider Yarm Conservation Area or designated heritage assets.

The proposal was considered to accord with the guidance set out in the National Planning Policy Framework guidance and Planning Listed Buildings and Conservation Areas Act 1990.

A vote was taken and the application was approved.

RESOLVED that planning application 12/2565/LBC be approved subject to the following conditions and informatives below:-

1. The development hereby approved shall be in accordance with the following approved plan(s);

Plan Reference Number	Date on Plan
SBC0001	26 October 2012
001 REV A	22 November 2012
002 REV A	22 November 2012
003 REV A	22 November 2012
004	26 October 2012
005	26 October 2012

2. Notwithstanding the submitted information and prior to the proposed access door facing onto the High Street being installed, the final finishing materials and colour scheme for the proposed access door shall be submitted to and agreed in writing with the Local Planning Authority. The door shall then be installed in accordance with the agreed details.

3. All new works, and works of making good to the retained fabric, whether internal or external, shall be finished to match the adjacent materials/finishes with regard to the methods used and to material, colour, texture and profile. The materials shall be completed in accordance with plan 002 REV A (dated 22nd November 2012).

#### INFORMATIVE OF REASON FOR PLANNING APPROVAL

The proposal has been considered in line with the Planning Listed Buildings and Conservation Areas Act 1990 and the NPPF. It is considered that the scheme accords with the act and the planning policy framework and will not have an adverse impact on the character and appearance of the listed building and there are no other material planning considerations which indicate that a decision should be otherwise.

The Local Planning Authority has implemented the requirements of the National Planning Policy Framework.

#### **P 83/12 Outcome of submission to Government and the Local Government Association on Legislative changes to Enforcement**

Following a resolution at Full Council on 2nd May 2012 Members were concerned that there had been numerous instances over recent years when developers and residents had undertaken new build projects, building alterations or other construction works that required planning approval but these people had either not submitted an application or disregarded the conditions or approved plans and only after being found out had been requested to submit an application for retrospective approval.

Many Members had been annoyed and frustrated at this lack of respect for the planning process and considered that legislation should be put in place to penalise those that intentionally disregarded the planning procedures.

It was therefore agreed that the Council submit a comprehensive proposal to government based on the evidence of recent cases. To enable all groups to participate in preparing the proposal, the Planning Committee was mandated to prepare a submission to address these concerns.

At the Planning Committee meeting held on 22nd August 2012 Members considered a submission taking into consideration all of the problems experienced by the authority to submit to the appropriate minister and to also sought support from the Local Government Association.

The request and report were sent to the Secretary of State for Communities and Local Government and also The Local Government Association. A response had been received on behalf of the Secretary of State which did not accept the

proposed changes to legislation. A response had also been received from the Local Government Association which indicated that it took very seriously the issue of unauthorised development, and strongly supported the principle of fair and proportionate powers for local planning authorities to address this. The Council's letter would be used as evidence of the urgency of the situation in the ongoing discussions with Government.

To overcome the limitations on the Council being able to charge a punitive planning fee, the Government should be encouraged to introduce primary legislation which would result in the imposition of a fine on any developer / owner of land who had carried out works in breach of planning control under the following circumstances:-

- \* The carrying out of works without the benefit of planning permission. The level of fine to be determined by the scale of the development and the cost of assessing its impact.
- \* Not in accordance with a grant of planning permission or that has been refused retrospective planning permission or on appeal or an Enforcement Notice which has been upheld.
- \* The new legislation should also provide for any person who 'aids, abets, counsels or procures the commission by another person of a summary offence' will be guilty of a like offence. This should include planning agents and builders.

This would require such breaches to be made criminal offences and would then provide an effective deterrent to unauthorised work for the following reasons:-

The scale of the fine would reflect the impact of the works on the amenity of the area, the residents and occupiers of the area and the enhanced value of the site that would have arisen if the unauthorised works had remained. This would be similar to the Tree Preservation Order legislation which provided when determining the amount of any fine for an offence the Court must have regard to any financial benefit which had accrued, or was likely to accrue, in consequence of the offence.

If the unauthorised works were committed by a company the legislation should provide that a director, manager or secretary of the company was guilty of the offence if it could be proved it was committed with their consent, or connivance, or was attributable to their neglect. This would overcome the difficulties of not being able to prosecute an individual within a company.

This would hopefully also encourage Planning Agents to seek work to obtain (non retrospective) planning permissions and builders to only undertake work which had obtained planning permission and build in accordance with the approved plans.

The response from the Secretary of State for Communities and Local Government was:-

"The Government is clear that unauthorised development is unacceptable and unfair to the majority who abide by the rules. However, we believe that it is important where people have made a genuine mistake that they are able to rectify the situation without being penalised. That is why we do not believe it is appropriate to criminalise breaches of planning control. Instead we have given



local planning authorities strong enforcement powers which they can use to tackle unauthorised development where they consider it is necessary.

As you are aware failure to comply with an enforcement notice is an offence and in determining the amount of any fine the court is required to have regard for any financial benefit which has accrued, or appears likely to accrue, as a consequence of the offence.

We consider that the prompt and effective use of the full range of enforcement powers available to local authorities will help dissuade local people from deliberately ignoring planning controls."

A response was also received from Councillor Mike Jones, Chair, Local Government Associations Environment and Housing Board  
Response from the Local Government Association as follows:-

"I should firstly like to reassure you that the Local Government Association takes very seriously the issue of unauthorised development, and strongly supports the principle of fair and proportionate powers for local planning authorities to address this.

We recognise that there is scope for more effective deterrents to prevent deliberate breaches of planning control happening in the first instance.

For example, in terms of fees for retrospective applications, we believe local planning authorities should have the power to recoup the full enforcement costs of facilitating the submission of retrospective applications, as well as the costs of determining the application.

As part of our ongoing discussions with government on the matter of decentralisation of planning fees, we are pushing for local authorities to be given this choice, and I shall draw upon your letter as evidence of the urgency of this situation."

Members were disappointed with the response from Government and supported the response from the LGA.

RESOLVED that the responses from the Secretary of State for Communities and Local Government and the Local Government Association be noted.

**P  
84/12      Planning performance and the planning guarantee consultation from  
Department of Communities and Local Government**

It was reported that Government had published a consultation paper indicating proposed changes to the determination of planning applications where it considered a local planning authority had a track record of very poor performance in either the speed or quality of decisions.

It would relate solely to major planning applications which would as a consequence be submitted to the Planning Inspectorate. A designated authority would then need to demonstrate a sufficient degree of improvement before the designation was lifted. It was proposed that any designation would last for at

least a year, but would be subject to review well before that year ends, so that an authority had the opportunity for the designation to be lifted at the end of the one year period.

The Government was proposing to use the existing statutory time limits for determining planning applications, (unless an extended period has been agreed in writing between the parties or the application has been subject to a planning performance agreement) as a measure of performance-“speed”.

The Government also proposed to use the appeal success rate for major development to indicate the ‘quality’ of decisions made by each planning authority. It considered that successful appeals against planning authority decisions represented cases where the Secretary of State, or an Inspector acting on his behalf, concluded that a different decision should have been reached and the application allowed. In the Government’s view this provided an indication of whether planning authorities were making positive decisions that reflected policies in up-to-date plans (where relevant) and the National Planning Policy Framework.

The Government proposed to monitor and assess performance on the basis of two key measures: the speed and quality of decisions on planning applications. These were considered to have a direct bearing on the planning system’s efficiency and effectiveness for both applicants and communities; and on its contribution to growth.

The consultation paper did not acknowledge in anyway the significant resource difficulties facing local planning authorities in terms of all the proposed changes to the planning system and providing an effective service at a time when pressures for cost savings and staff cuts in local authorities were at their maximum. The issue of providing sufficient funding to operate a planning service able to meet all the new targets as well as applicants and local communities’ needs had only been partially addressed by increasing the planning application fees by 15% even though in previous consultations the Government had fully acknowledged that the majority of local planning authorities were failing to recover costs from fee income. No regard had been paid to the Planning Costs and Fees Final report commissioned by DCLG and produced by Ove Arup which was published in November 2010.

The purpose of the proposal was to firmly “focus” the attention of local planning authorities on not only making timely decisions but “positive” decisions reflecting the National Planning Policy framework and allowing development otherwise they would be designated and major planning applications would be determined by the Planning Inspectorate together with the significant loss of planning application fee income. It was considered that the “Quality” of decision indicator needed to incorporate a minimum number of decisions otherwise the percentage figure would have a disproportionate impact.

There was no consideration by Government of the resource implications on local planning authorities of achieving and maintaining the speed and quality of planning application decisions particularly given the unspecified level to which the “speed” bar would be raised after the first year together with all the other proposed changes to the planning system. As indicated above the Government had acknowledged that local planning authorities were not properly funded and

had again failed to ensure they were adequately resourced to secure the delivery of an efficient, proportionate and effective service. Consequently the potential implications of the proposed changes were an even greater need to ensure that nationally set targets were met as failing to do so would not only be the loss of control of the determination of major planning applications but it would also create a significant budget pressure with the loss of the greater part of annual fee income which supports the service. There would be further increased workload for staff at a time when there was great uncertainty as to the level of staffing which could be funded and thereby limiting the prospects of meeting the targets or improving sufficiently to demonstrate a sufficient degree of improvement before the lifting of the designation.

Members felt that if these proposed changes were made it would take the decision making away from local people and the Government was effectively telling Members what decision they had to make. Members felt that the issue should be raised with the LGA and that a strong corporate response was needed to the consultation outlining the Council's opposition to the proposals.

RESOLVED that:-

1. The report be noted.
2. A strong corporate response be sent to the Government outlining the Council's opposition to the proposals.