

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

11 SEPTEMBER 2013

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

13/1853/VARY

Allensway/Tedder Avenue/Trenchard Avenue, Thornaby

Section 73 application to vary condition no.5 (Hours of Construction) of planning approval 12/2800/FUL - Extension of the existing Allensway road to the south to link in with Tedder Avenue to provide a second access to Thornaby Town Centre. The work will also include the widening of Tedder Avenue on the approach to Trenchard Avenue and incorporate a revised signalised junction arrangement. Construction of a cycleway link between Trenchard Avenue and the existing route adjacent to the Adult Training Centre.

Expiry Date 20 September 2013

SUMMARY

This application seeks permission to vary condition 05 (Hours of Construction) of approval 12/2800/FUL (approved by Planning Committee Members in February 2013) for the extension of the existing Allensway Road to the south to link in with Tedder Avenue to provide a second access to Thornaby Town Centre. The applicant has submitted a plan illustrating the siting of the works that are required to be undertaken outside of the stipulated/controlled hours;

The stretch of footpath along the north eastern boundary to Northumbrian Water Limited's offices and to the west of Asda's car park relate to a temporary footway closure during weekday night time working (2100 hours - 0600 hours). The applicant has confirmed in writing that such works are likely to last for two weeks (providing there are no unforeseen circumstances encountered on site) and the works would involve:

- taking up the existing pre-cast concrete paving slabs;
- excavating 320mm for the combined footway / cycleway construction;
- constructing the new bituminous footway.

Under the Council's Scheme of Delegation, the application is put forward for determination by the Planning Committee as it does not constitute minor development.

The application site relates to an area of land to the south of Thornaby town centre. Tedder Avenue is currently served/accessed by Trenchard Avenue. To the south of Tedder Avenue are residential properties with Northumbrian Water Limited (NWL) to the west and the Adult Training Centre to the north east. Residential properties within Leahope Court are present to the north east, adjacent to Allensway, with Asda supermarket beyond.

Planning permission has already been granted for the proposed development and associated works and as such the main considerations of this application relate to the impact of varying the hours of construction and deliveries to the site and any resultant impact on the amenity of

neighbouring properties in terms of overlooking and noise disturbance, and any impact on highway safety.

The Environmental Health Unit Manager has raised no objections in principle to the scheme. No objections have been received from the Head of Technical Services.

1 objection has been received from the occupier of No 7 Havilland Road, commenting that the works have increased general disturbance for residents in the area.

The proposal satisfies the principles of the NPPF, and Core Strategy Policy CS3 and therefore the proposal is considered to be acceptable. The application is therefore recommended for approval.

RECOMMENDATION

That planning application 13/1853/VARY be approved subject to the following conditions and informatives below;

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

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>TS-D2-26-2-9</i>	<i>26 July 2013</i>

Reason: To define the consent.

02. *This consent relates solely to the variation of condition no. 5 of planning permission 12/2800/FUL and does not in any way discharge any other conditions of planning permission 12/2800/FUL which still apply.*

Reason: - To define the consent

INFORMATIVE OF REASON FOR PLANNING APPROVAL

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

BACKGROUND

1. **12/2800/FUL**; Planning permission was granted on 28th February 2013 for the extension of the existing Allensway road to the south to link in with Tedder Avenue to provide a second access to Thornaby Town Centre. The work will also include the widening of Tedder Avenue on the approach to Trenchard Avenue and incorporate a revised signalised junction arrangement. Construction of a cycleway link between Trenchard Avenue and the existing route adjacent to the Adult Training Centre.
2. The approved works include the widening of Tedder Avenue on the approach to Trenchard Avenue and incorporate a revised signalised junction arrangement. The scheme also includes the construction of a cycleway link between Trenchard Avenue and the existing route adjacent to the Adult Training Centre. The extended access will run from Tedder Avenue (south) alongside the adjacent boundary to NWL depot (west) and adjoin Allensway (north east), adjacent to the Asda car park. The scheme will also provide an additional car park to serve the Adult Training Centre.

3. The approved highway link will provide a second access into Thornaby Town Centre and provide relief to the existing signal controlled junction between Allensway and Mitchell Avenue. The scheme will also provide an additional option for emergency vehicles to access the town centre in the case of traffic problems on the other access.
4. The approved scheme makes provision for the replacement of tree planting alongside the proposed access road and cycle path.
5. As part of the submitted supporting planning statement to the original approval, it was noted that as part of the regeneration works to Thornaby Town Centre and a development agreement for highway works, the developer (Thornfield and its successors) had an obligation to provide a second access to the town centre. In accordance with this agreement, there was a requirement for the developer to set aside the sum of £750,000 as a bond to fund a new access road. The agreement stipulated that if the road was not provided by 31st March 2012, the Council had the option to call in the bond to arrange for the construction of the second access. The planning application was submitted accordingly to progress the matter.
6. **13/1031/APC**; The requisite information to discharge condition No.3 (Hard Landscaping) and 4 (Soft Landscaping) of planning approval 12/2800/FUL was approved on 4th June 2013.

SITE AND SURROUNDINGS

7. The application site relates to an area of land to the south of Thornaby town centre. Tedder Avenue is currently served/accessed by Trenchard Avenue. To the south of Tedder Avenue are residential properties with Northumbrian Water Limited (NWL) to the west and the Adult Training Centre to the north east. Residential properties within Leahope Close are present to the north east, adjacent to Allensway, with Asda supermarket beyond.

PROPOSAL

8. This application seeks permission to vary condition 05 (Hours of Construction) of approval 12/2800/FUL (approved February 2013) for the extension of the existing Allensway Road to the south to link in with Tedder Avenue to provide a second access to Thornaby Town Centre.
9. The original approval was approved subject to the following condition limiting hours of construction and deliveries to the site;

No construction/building works or deliveries shall be carried out except between the hours of 8.00 am and 6.00 pm on Mondays to Fridays and between 9.00 am and 1.00 pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.

Reason: To avoid excessive noise and disturbance to the occupants of nearby properties.
10. The applicant has submitted a plan illustrating the siting of the works that are required to be undertaken outside of the stipulated/controlled hours;
11. The stretch of footpath along the north eastern boundary to Northumbrian Water Limited's offices and to the west of Asda's car park relate to a temporary footway closure during weekday night time working (2100 hours - 0600 hours). The applicant has confirmed in writing that such works are likely to last for two weeks (providing there are no unforeseen circumstances encountered on site) and the works would involve:
 - taking up the existing pre-cast concrete paving slabs;

- excavating 320mm for the combined footway / cycleway construction;
 - constructing the new bituminous footway.
12. The section of highway to be resurfaced along Allensway (south of Asda car park, north of Adult Training Centre and Leahope Court), and the stretch of Tedder Avenue (south) relate to final surfacing works that are to be carried out between 0900hours - 1800hours for an indicated three days.
13. The final works also relate to cross carriageway ducting along Tedder Avenue and Allensway that are to be carried out on a Sunday between 0900 - 1800 hours.
14. The scheme is currently being undertaken on site in accordance with the existing planning conditions.

CONSULTATIONS

15. The following Consultees were notified and comments received are set out below:-

Environmental Health Unit Manager

The works are fairly remote from residential property and given they are of limited duration should not be too intrusive and therefore we would not object on Planning grounds as seems reasonable. If we receive complaints, they may well comply with the Planning condition but we would assess for noise nuisance under the Construction noise controls in the Control of Pollution Act 1974, which could impose controls or cease operations if excessive. Under the same legislation those carrying out the works can apply for a prior consent for which the operator and Environmental Health (and) adjacent properties can agree restrictions on hours of operation etc.

I would suggest that if there is any local objection to this variation but it is agreed then the applicant contacts Environmental Health to agree a Prior Consent in order to avoid disruption of the works should complaints be received.

Head of Technical Services

Highways Comments

There are no highway objections.

Landscape & Visual Comments

This proposal has no landscape or visual implications.

Thornaby Town Hall

No comments received

Councillor Derrick Brown

Councillor Sylvia Walmsley

No comments received

PUBLICITY

16. Neighbours were notified and comments received are set out below :-

Mary Johnston

7 Havilland Road Thornaby

It seems you have already started on the road. Work on the road outside our house started back in 2012. First the water board dug up the road, then gas, then BT. The dust and mess

has been going on for over 9 months. I have had to clean carpets twice. Now it starts again. We have lived at No 7 since 1967 and I find this very stressful. I hope you are going to compensate us.

PLANNING POLICY

17. 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 saved policies of the Stockton on Tees Local Plan
18. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires 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 shall 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
19. The following planning policies are considered to be relevant to the consideration of this application:-

National Planning Policy Framework

Paragraph 14. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking;

For decision-taking this means:

approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or -specific policies in this Framework indicate development should be restricted.

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

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.

MATERIAL PLANNING CONSIDERATIONS

20. As noted above, planning permission has already been granted for the proposed development and associated works and as such the main considerations of this application

relate to the impact of varying the hours of construction on the site and deliveries to the site and any resultant impact on the amenity of neighbouring properties in terms of overlooking and noise disturbance, and any impact on highway safety.

Amenity of adjacent land users

21. Para 123 of the NPPF states that "*planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
 - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established and*
 - *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason".*
22. The impact of the approved works (including the provision of the car park to serve the Adult Training Centre, the extended access onto Tedder Avenue, the increased width of Tedder Avenue, the provision of an additional cycleway and the extended access to adjoin Allensway to the north of the site) were considered as part of the original approval. It was concluded that the proposed works and resultant development would not result in an unacceptable loss of amenity for neighbouring properties in terms of outlook, overlooking and noise disturbance.
23. The new identified temporary footway closure works would take place during hours of 2100-0600, with the nearest residential properties sited approximately 95m to the east (along Leahope Court) and approximately 120m to the south (beyond Tedder Avenue). The nearest properties to the west are sited approximately 150m away with the presence of a highway (Trenchard Avenue) and Northumbrian Water Limited's building in between.
24. The identified final surfacing works and cross carriageway works along Allensway and Tedder Avenue would take place on a Sunday during 0900-1800 hours (approximately 3 days) with residential properties along Leahope Court to the north east and along Tedder Avenue and Havilland Road to the south.
25. The Environmental Health Unit (EHU) Manager has assessed the proposed works in view of the original approval and the proposed variation of hours of construction, and has commented that "*the works are fairly remote from residential property and given they are of limited duration should not be too intrusive and therefore we would not object on Planning grounds as seems reasonable".*
26. The EHU Manager has advised that should complaints be received, the EHU would "*assess for noise nuisance under the Construction noise controls in the Control of Pollution Act 1974, which could impose controls or cease operations if excessive. Under the same legislation those carrying out the works can apply for a prior consent for which the operator and Environmental Health and adjacent properties can agree restrictions on hours of operation etc".*
27. In view of the above considerations, including the EHU Manager's comments, it is not considered necessary in this instance to apply a further restrictive condition to control the

hours of construction and deliveries as should the works extend beyond the stipulated timescales (for any unforeseen circumstances), any potential issues of noise disturbance could be controlled under separate legislation to planning (as identified by the EHU Manager).

28. In view of the above, it is considered that the variation of the condition in this specific instance would not result in an unacceptable loss of amenity for neighbouring properties and land users in terms of outlook, overlooking and noise disturbance and are acceptable.

Other matters

29. With respect to the previous works undertaken by statutory undertakers, such works can be undertaken under permitted development rights afforded to such undertakers and therefore whilst the comments are noted, they are not material to the assessment of the current application.
30. The proposed works benefit from planning approval where construction works and associated noise disturbance are an accepted part of such development as identified within the NPPF. As such, the comments from No 7 Havilland Road relating to compensation is not a material planning consideration.

Highway and pedestrian safety

31. The Head of Technical Services has raised no objections to the proposed variation of condition in terms of highway and pedestrian safety.

CONCLUSION

32. It is considered that the scheme accords with the provisions of the NPPF and Core Strategy Policy CS3 as the variation to the approved scheme will not have an unacceptable impact on the amenity of neighbouring land users. It is further considered that the variation to the scheme will not lead to an adverse loss of highway safety.
33. It is recommended that the application be Approved with Conditions for the reasons specified above.

**Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Daniel James Telephone No 01642 528551**

WARD AND WARD COUNCILLORS

**Ward Stainsby Hill
Ward Councillor Councillor Mrs Sylvia Walmsley**

**Ward Stainsby Hill
Ward Councillor Councillor Derrick Brown**

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.

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