

Planning Committee

A meeting of Planning Committee was held on Wednesday, 13th November, 2013.

Present: Cllr Robert Gibson(Chairman), Cllr Gillian Corr(Vice-Chairman), Cllr Jim Beall, Cllr Michael Clarke, Cllr Jean Kirby, Cllr Alan Lewis, Cllr Ken Lupton, Cllr Maurice Perry, Cllr Andrew Sherris, Cllr Norma Stephenson O.B.E, Cllr Mick Stoker, Cllr Steve Walmsley, Cllr David Wilburn

Officers: D Coulton(CESC), Matthew Clifford, Andrew Glossop, Joanne Hutchcraft, Barry Jackson, Richard McGuckin, Peter Shovlin, Colin Snowdon, Carol Straughan(DNS), Julie Butcher, Sarah Whaley(L&D)

Also in attendance: Applicants, Agents, Members of the Public

Apologies: Cllr Phillip Dennis, Cllr Paul Kirton, Cllr David Rose,

P Evacuation Procedure

72/13

The Evacuation procedure was noted.

P Declarations of Interest

73/13

There were no declarations of interest.

P 13/2184/OUT

74/13

**Field at Grid Reference 440817 514442, Urlay Nook Road, Eaglescliffe
Revised Outline application for residential development (C3)**

Consideration was given to a report on planning application 13/2184/OUT, Field at Grid Reference 440817 514442, Urlay Nook Road, Eaglescliffe, Stockton on Tees.

Outline planning permission was sought for a residential development on land to the west of Hunters Green, Eaglescliffe. The site was split by the A67 with the northern part being proposed for housing and open space and the southern part being proposed to be provided with an ecological enhancement scheme. All matters were reserved with only the principle of development sought by the application although there remained to be a requirement to indicatively demonstrate the development was achievable. The indicative site layout plan was showing up to 145 houses on the site, an area of open space, landscaped areas, and a point of access off Urlay Nook Road.

The application had been submitted following the refusal of planning permission for a similar scheme in June 2013 and sought to fully address the reasons for refusal.

The site was located within the defined limits to development, within the Yarm, Eaglescliffe and Preston Housing sub division area as detailed in the Core Strategy and adjacent to a site which had approval (subject to S106 being signed) for an industrial development. Existing housing was lying to the opposite side of Urlay Nook Road and there was an approved housing site of Allens West to the north, beyond Urlay Nook Road and a railway line.

Significant objections had been raised against the application, including from Councillor Rigg, Egglecliffe & Egglecliffe Parish Council and Longnewton Parish Council. The main thrust of objections related to the proposal being premature to the democratic process of site allocations via the development plan, the impact of traffic, the lack of services and resultant pressure on services including schools, the impact on wildlife and the overall sustainability of the proposal.

Consultation responses had been received from the Highways Agency, Natural England, the Environment Agency, Tees Archaeology, Tees Valley Wildlife Trust, the Head of Technical Services, The Head of Housing and Environmental Health. No objections were raised from these consultees subject to the imposition of conditions and agreements requiring mitigation and further investigative work to be undertaken at a later stage and subject to the final layout and design taking into account certain matters such as works to the highway to mitigate traffic impacts, ecological mitigation, demonstration of a suitable surface water drainage scheme and provisions / contributions to be made towards highway works / education places and affordable housing.

As the site was within the limits of development a residential development was in accordance with the principles of saved Local Plan Policy HO3. The proposal would be contrary to Core Strategy Development Plan Policy CS7 which indicated that no additional housing sites would be allocated before 2016 and land for only 50 – 100 dwellings (approximate) being allocated between 2016 and 2021 in the area, however, guidance contained within the National Planning Policy Framework (NPPF) advised that adopted housing policies should be considered out of date where the authority could not demonstrate a 5 year supply of housing land, thereby rendering the housing policy out of date and unable to be given weight in respect to allocating housing numbers. The Council had currently demonstrated a 4.23 year supply of housing land. In view of NPPF, the site being an unallocated greenfield site within the Limits of Development and within the Yarm, Egglecliffe and Preston Housing Sub Division area, the principle of residential development was considered to be acceptable.

Being outline with all matters reserved, the main considerations of the application beyond the principle of development related to sustainability, traffic, indicative layout, contributions / provisions, ecology, archaeology, contamination. These had all been considered in detail within the report. It was considered that the impacts of additional traffic could be adequately mitigated as could impacts on archaeology and ecology. The site was considered to be within reasonable distance of a range of services including education, retail, employment, leisure and a bus service existed near to the local centre, which this scheme proposed to extend the route for a 5 year period, thereby bringing it closer to the development. The site was considered to represent a sustainable location for residential development.

In view of all of the above it was considered that although contrary to the housing policies within the Core Strategy they could not be given material weight and the scheme would be in accordance with relevant saved policies of the local plan, the NPPF and other remaining core strategy policies.

The Consultees had been notified and the comments that had been received

were detailed within the report.

Neighbours had been notified initially, followed by a re-consultation due to the submission of additional information. A significant number of representations had been made with some individuals submitting numerous individual objections. A total of 548 people had commented, all of whom had objected to the scheme. Due to the extent of correspondence a summary of comments which had been received were detailed within the report. Full unedited versions were available to view on-line or within the planning department.

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 indicated 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 15 Jan 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 required 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.

Members were presented with an update report which outlined that additional comments had been received from the following;

- . The Councils Environmental Health Officer
- . Yarm Town Council
- . Northumbrian Water
- . Councillor Dennis
- . 2 Residents

Comments had also previously been received from the Police Tactical Training Centre although they had requested that these be treated as private and were therefore not logged for public viewing. Officers queried the need for them to be private and Cleveland Police had further considered their stance and advised that the comments could be made public.

Additional comments including those of the Police Tactical Training Centre were summarised within the report.

The update report also highlighted the Material Planning Considerations that had arisen from the comments.

The update report recommended that the application be determined in accordance with the main report subject to the following changes;

1. Removal of Condition 18 within the main report relating to site Waste Management Plans.
2. Inclusion of the conditions below;
3. Remove the bus service provision from the Heads of terms.
4. Inclusion of the Education Heads of Terms detailed within this update report.

Preliminary Risk Assessment

No development hereby approved shall be undertaken on site until a scheme of site contamination assessment and mitigation has been undertaken to the written satisfaction of the Local Planning Authority, in accordance with a scheme of such which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based around but not restricted to the scheme detailed within Sections 6, 9 and 10 of Fairshurst's Geo-Environmental Desk Study Report for Urlay View Residential Development ref: D/I/D/91483/02/C as submitted on the 27th August 2013.

Bus Service

No more than 75 properties will be occupied within the development hereby approved until an extension to the local bus service/s has become operational which provides a daytime hourly service Monday to Saturday and a Sunday Service for a period of 5 years up to the Lartington Way South East Bus Stop, in accordance with a scheme of such which has first been submitted to and approved in writing with the Local Planning Authority.

Public Right of Way

No development hereby approved shall be undertaken until a scheme works to the Public Right of Way within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the timing of the works and the development shall be undertaken in accordance with the approved scheme.

Noise Mitigation scheme

No development hereby approved shall be undertaken until a scheme of noise mitigation has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail noise mitigation measures from surrounding land uses including the highways and railway. The development shall be undertaken in accordance with the approved scheme.

The Planning Officers report concluded that the proposed residential part of the development was within the defined limits of development and within the Yarm, Eaglescliffe and Preston housing sub division area as detailed within the Local Plan and Core Strategy Development Plan. The principle of residential development on the site was therefore in general accordance with Development Plan Policy. Core Strategy Development Plan Policy CS7 did not support new residential development in the current period and only a limited provision thereafter which had arguably already been met and surpassed by other recent permissions. However, the National Planning Policy Framework guidance made clear that that housing related policies within development plans should not be considered as being up to date if an authority could not demonstrate a 5 year housing supply. The Head of Planning considered that Stockton Borough currently had a 4.23 year supply and as such the housing figures for the area as defined in CS7 were considered to be out of date when considering this and other housing applications. In view of those matters residential development of

the site was considered to be acceptable as it accorded with the NPPF guidance.

The scheme was in outline form only with all matters reserved, however, it had been demonstrated through survey work that the residential development of the site could be undertaken (subject to appropriate conditions) without having an undue impact on traffic, highway safety, ecology, archaeology, pollution and other matters. In order to meet the demands of future occupiers of the site and mitigate impacts such as on the highway network, on school places provisions, affordable housing and on parking in Yarm a Section 106 Agreement was required. Therefore approval was recommended subject to the imposition of appropriate conditions and the signing of a Section 106 Agreement in accordance with the Heads of Terms as detailed within the report.

Representatives of the applicant were in attendance at the meeting and were given the opportunity to make representation. Their comments could be summarised as follows:

- . That the applicant had addressed the reasons for the original refusal of the application

- . A number of objections received contradicted professional opinion

- . That a detailed application would be submitted as soon as possible and that Taylor Wimpey were a local company who were keen to work with the local authority

- . A greater financial contribution would be made by the applicant to local schools than that of the original application

- . The impact of school provision was in accordance with current policy as confirmed with Education Strategy Manager.

- . The applicant's ecologists considered that the part of the site to be developed was not used by newts passing between the existing populations. Any newts found at the site would be sporadic non breeding ones. The Committee were informed that Tees Valley Wildlife Trust accepted the findings.

Objectors were in attendance at the meeting and were given the opportunity to make representation. Their comments could be summarised as follows:

- . That there was chemical pollution on site which could impact on residents health and until the site was cleaned up Taylor Wimpey, shareholders would be lobbied to object to the development and if required persuade them not to appeal if the application was refused. Residents requested that an environmental health assessment be carried out as there was concern that a site which had produced contaminants for over 49 years could be safe. Members of the public also raised concerns that pipes on the site were in poor condition and had a history of leaks and if disturbed could pollute the River Tees. An objector suggested that he would seek approval from Taylor Wimpey shareholders to pay for an independent survey of the site.

- . Members of the public felt that the revised application had not taken into

account Stockton Borough Councils current traffic model when considering road user awareness.

. Traffic congestion issues were raised in particular at the Long Newton/A66 interchange, that the road through Long Newton to the A66 would have increased traffic use when new residents realised it was an easier route through to the A66, becoming a traffic rat run and could result in an increased risk to residents within Long Newton.

. Residents raised concerns in connection with the SUDS system and highlighted to the Committee that the same disaster which had recently been encountered in Saltburn could happen at Urray Nook due to oversized pipes.

. Local plans should take climate change into account.

. Drains in Eaglescliffe would not cope with the increase of drainage and could have similar results to that of Iustrum Beck in Stockton which had flooded in the past damaging residents property.

. The new proposal did not include any major changes from the original application which was refused by the Committee; therefore the new proposal should also be refused.

. There would be insufficient school places to cope with the increase of families at Urray Nook. The original application saw refusal given partly due to shortfall of secondary school places in the area, nothing had changed since then and demand was set to increase in 2014 without the current proposal. Residents also felt that other current planned developments, such as Allens West and the continuing expansion of Ingelby Barwick, had not been taken into account when considering the availability of school places. Residents asked how the Council could confidently say that secondary school places would be available for all.

. In relation to primary schools it was highlighted that currently there were only 9 available places in the Eaglescliffe area. Families would not be able to secure school places in advance and therefore it would be highly likely that spaces would have to be found outside of the catchment area for Urray Nook. Additional car journeys to schools outside of the area would be inevitable. Residents felt that Taylor Wimpey had not attempted to address schooling issues and if schools required expansions which schools would this be and who would pay the cost?

. Residents highlighted that there had been no representations made in support of the application and the Planning Committee should not buckle and continue to refuse the application.

. Issues were raised surrounding the impartiality of the traffic survey which had been conducted by Stockton Borough Council on behalf of Taylor Wimpey. Residents also felt that the survey had not been conducted at the correct time of year, as the month the survey was carried out was during June and July. Residents felt that this would have seen a reduction in road users to and from schools as June would have seen an increase in school leavers and July was the month schools closed for the summer break. There was also a roundabout closure both sides of the proposed site during the traffic survey which residents

felt did not reflect the true level of traffic on the roads. Concerns relating to the need for free flowing traffic on the A67 were raised in relation to emergency services, especially when responding to emergencies at Durham Tees Valley Airport. It was highlighted that the Police Tactical Team operated at speed on the A67 in unmarked cars and the Committee were asked to take this into account when arriving at their decision.

. There had been no traffic survey carried out at the Cleveland Bay traffic lights which residents felt was a main area of congestion and bottle neck.

. A local resident from the Hunters Green area expressed to the Committee that current speed limits went from 60mph to 30mph in a short space and could increase road dangers to the increased number of children and families walking to and from school. A five minute journey could also take from twenty five to thirty minutes currently and if the proposed development went ahead further congestion would be created.

. The existing road system serving Yarm and Eaglescliffe was already fragile some journeys taking up to 40 minutes in a car from Tesco at Eaglescliffe to South Yarm.

. Issues were raised concerning the impact of increased traffic on Yarm Bridge. Residents highlighted Yarm bridge was a principal bridge built in 1400 by the bishop of Durham. Had the Committee given consideration to possible damage to the bridge from additional vehicles once all the locally approved developments within the Yarm and Eaglescliffe area were built? A member of the public informed the committee that when she walked over the bridge, on occasion, she felt she was taking her life in her hands when large lorries passed and that members of the older generation had indicated to her that they also felt vulnerable walking over the bridge. It was felt that until an additional bridge was built over the river at Yarm the traffic issues were insolvable. . Members were asked to refuse the proposed development on the grounds that children would be at risk on the surrounding roads.

. There were pinch points on all surrounding roads which could not be widened.

. That the Council were at fault to suggest traffic would be no worse off if the development gained approval.

. That local authorities had a duty to encourage Biodiversity not spoil it. Councils needed to ensure places that were cherished were bequeathed to the next generation in a better state than they were currently.

. Members of the public informed the Committee that the RSPB had confirmed that rare species of birds used the area in which the proposed site was to be developed for nesting. There had also been siting's of birds of prey hunting on the site which had been ringed by the RSPB, and that if the site was to go ahead hunting and feeding sites for wildlife would be lost forever.

. Planned hedgerow removal would have a serious negative impact on the local environment.

. Concerns were raised in relation to the site not being considered arable land;

as it had been assessed as grade 3 agricultural lands in 1972 according to a report supplied by Taylor Wimpey. Residents explained that the land had been used recently for crops and this needed to be preserved for self-sufficiency. Residents felt that should the land be graded again it would categorically show that the land was agricultural land and Natural England had suggested a more detailed land survey should be carried out.

. There were concerns raised in relation to the level crossing which was very close to the proposed site. A recent consultation by Network Rail had been carried out investigating the possibility of the level crossing closing. Residents highlighted that if this did occur traffic from Hunters Green would only be able to travel in one direction resulting in approximately 1400 cars using the same access route. If the crossing remained open then it was felt by residents that the crossing would be too dangerous to cope with cyclists, pedestrians, cars and trains.

. Issues were raised in relation to the objective of the NPPF which was first introduced in March 2012. One of the main objectives was that unprecedented power be put in the hands of local residents in relation to planning matters. Residents were saying that enough was enough and that Taylor Wimpey was not taking residents' concerns seriously with the offer of a cycle lane and a bus stop.

. Residents expressed that a core strategy document 2015 - 2021 indicated that with a development of 500 houses at Allens West the housing need would be fulfilled within the Yarm Preston and Eaglescliffe area. As 843 houses had been approved at Allens West this should have eliminated the need for further development. It was also highlighted that there was currently 2000 houses approved which were still to be built in the area which residents felt was three times more homes than was actually required as detailed within the core strategy document. The majority of the homes which were being built were of an executive type when it had been identified that there was a real need for starter homes and bungalows in the area. It was felt by residents that major developers were building a land bank of planning approval and that currently Taylor Wimpey had planning permission for 101,000 plots.

. Members of the public expressed that green field sites should not be included for development. Developers were overlooking brown field sites due to increased costs associated with developing them. Members of the public expressed that they felt developers were being given the opportunity to dictate where they could build and that residents opinions were not being listened too.

. It was heard that Great Crested Newts which inhabited the proposed site were protected by UK and European legislation. A survey which had been conducted by Taylor Wimpey's ecologists had not been carried out at the right time of year. A report which was conducted in 2011 highlighted that there was a large significant quantity of breeding Great Crested Newts at a pond close to the site. Newts had been observed 200 metres away from the proposed site and if the development went ahead it would infringe on their habitat. Residents explained that Tees Valley Wildlife Trust had also objected to the application on the grounds of disturbing the Newts.

. The lack of Doctors and Dentists within close proximity of the development.

. That the site was of archaeological interest and should be preserved as domestic settlements from the Iron and Roman age were believed to have been found there, and that this required further investigation.

. Issues surrounding noise pollution was highlighted, especially as the site was so close to Durham Tees Valley Airport. Residents queried why Taylor Wimpey were improving the double glazing and fencing to reduce noise levels if noise was not a problem.

. It was highlighted that the access to the site was unsuitable as it was close to a bend and visibility was poor which could result in accidents. Residents were also concerned that vehicles would be too close to resident's fences and were worried that vehicles may in fact come through them. Members of the public asked the Committee that further consideration be given to public safety in relation to Heavy Goods Vehicles during site construction. Planning officers were also asked for reassurances that queuing traffic would not increase during construction of the site.

. There was no current existing bus service and it was requested that a previous service provided by Arriva buses be re-instated for a minimum of 5 years. Residents asked this be put in writing however still felt that this was still not a long term sustainable plan.

. Residents expressed their fears that if the development was not approved then Taylor Wimpey would appeal. Indications were given by residents that it was felt that Stockton Borough Council would lose an appeal and be left to pick up the cost. Members of the public felt that towns like Stockton were sitting ducks for developers. Members of the public indicated that Taylor Wimpey was a major donor to the Conservative Party and that they had contributed to writing the government's new planning law. It was also stated that the local electorate felt ignored especially as over 500 objections had been received against this development.

Cllr Phillip Dennis, Ward Councillor for Eaglescliffe was in attendance at the meeting and was given the opportunity to make representation. His comments could be summarised as follows:

. The S106 agreement was to be signed within 10 days following committee which was too short for any amendments to be made.

. That the big elephant was the bus service as the Road Traffic Act 1985 allowed a bus service provider such as Arriva to cancel or change bus services with only 56 days' notice.

. Traffic issues around the junction at the Cleveland Bay Public House should not be discounted due to the severe bottle neck which already existed.

. The demand for housing in the borough was not high

. Empty homes within the borough currently stood at 2500 and some of those had been empty for over 7 years. These homes were already served by roads and schools.

. Traffic surveys were carried out when traffic was at its lowest.

. The traffic survey should have completely independent.

. The survey carried out in relation to the Great Crested Newts was conducted

at the wrong time of year, and that the North East Reptile Organisations findings disagreed with that of Taylor Wimpey.

.Data provided regarding school capacity was inaccurate.

.There were still a number of issues remaining within the applicants documents which were refused at the original application and members were asked to refuse the application on the same grounds as before.

Officers of the Council and representatives from Taylor Wimpey were given the opportunity to address concerns that had been highlighted by objectors who were in attendance at the meeting. These could be summarised as follows;

Surface water issues:

. Northumbrian Water had confirmed that they had capacity to take surface water away at 20 litres per second.

Archaeological issues:

. Archaeology work had been carried out following best practice. Tees Archaeology were happy with the work conducted on site and had recommended conditions as detailed within the main report.

Arable land issues:

. The grading of the proposed site was not up to date however it was not considered necessary to have the land re-graded as the loss would be minimal and insufficient to outweigh the lack of a 5 year housing supply.

Road Safety/Traffic issues:

. Reference was made to the traffic survey which had been carried out and the Committee heard that it was accepted that there was congestion in the area however what the traffic survey had highlighted was that the impact of the development on congestion was acceptable. It was expected that an additional 140 cars would be on the road during peak times however it was also expected that these vehicles would be driving away from Yarm. The traffic surveys which were carried out in June and July were conducted by Stockton Borough Councils independent transport arm which were considered a professional outfit, who had clear vision during the survey and were there for the full period of time required. The Head of Technical Services added that June was considered a neutral month with only 3% difference being seen which was well within variations from summer to winter. In relation to the issues raised regarding the roundabout situated close to Tesco at Eaglescliffe, it was stated that although this was a contentious issue there were wider issues around Yarm and Eaglescliffe, however the roundabout would continue to operate within capacity The Head of Technical Services concluded that he remained satisfied that the findings from the traffic survey were sound and robust.

. With regards to road safety and traffic accidents in and around the proposed site, there had been no traffic accident records found from the A66 to Yarm. Average road speeds which passed the site had been recorded at 34mph. The Committee were told that the first part of the development to be commenced would be site access. A new pedestrian island would be situated in the centre of the road and would help reduce the average speed of 34mph even further.

. With regards to the issues residents highlighted in connection with the possible closure of the level crossing it was explained that Network Rail had 1962 level crossings which they were looking to close. Network Rail would not close all crossings at once due to funding issues however would concentrate on those

that were considered to be the most unsafe. If the crossing at Urray Nook was not closed it would however be upgraded. If the crossing was closed the roundabout located close to the Tesco store at Eaglescliffe would still have capacity to cope.

Contamination issues:

- . Officers explained that when determining the levels of contamination on a proposed development site, soil samples and intrusive samples would be taken for assessment. The assessments which had taken place at the proposed site had resulted in nothing of major concern to stop the development. There was however a condition detailed within the report stating that further assessments were to be carried out. Officers confirmed that the Elementis pipe was not on the part of the site being developed and was checked on a regular basis by camera. Soil sampling along the route of the pipe had shown no evidence of contamination

Emergency services:

- . The Head of Technical Services expressed that he and other officers of the Council met with personnel from the emergency services sector on a regular basis. Any cause for concerns would be raised at these meetings and dealt with appropriately.

Yarm Bridge:

- . Yarm bridge was an incredibly strong structure receiving regular inspection which also included underwater inspection.

Great Crested Newts

- . Crested Newts could disperse up to 500 metres.
- . Over 20 movements of vehicles per night would disturb the newts.
- . There was a northern population on site however no recognised breeding ponds for the newts
- . Natural England and Tees Valley Wildlife Trust had withdrawn their original objections.

Ecological issues

- . Taylor Wimpey had agreed to a full survey of the site which had shown less than 10 species on site breeding.
- . The main ecological features would be retained.

Education/Schools

- . There was an education consultant working with the Local Authorities Planning Department.
- . The expansion to Junction Farm primary was due to open in 2014.
- . The approved free school for Ingleby Barwick would have a temporary site available by Sept. Members were told that both sites would be sufficient to accommodate children from the proposed development.

Members were given the opportunity to ask questions/make comments on the application and these could be summarised as follows:

- . Further clarification be sought regarding the comments received from the Police Tactical Training Centre such as the ability to deploy police officers at speed during construction and on completion of the development.

.That all potential residents were informed by letter explaining the activities which were carried out at the training centre including helicopter landings.

. Once the Allens West development was approved it was realised later that there was a shortage of primary school places, the only school with suitable land for expansion was Junction Farm. If children from the Uray Nook development attend Junction Farm Primary in Eaglescliffe where will the children from the Allens West development go? Officers responded and explained that currently there was a 15% surplus of school places within Eaglescliffe and as the development completed and the number of eligible pupils increased this would eventually fall to 6% surplus.

. Members raised issues regarding pipes which ran under the site and expressed that they had concerns relating to contamination and the possibility of pipes collapsing under houses or gardens. Officers confirmed that the pipes from the Elementis chemical plant would not run under the developable part of the site, however Northumbrian Water pipes and sewer pipes would run under the site. The location of the Elementis pipe was referred to on the map on the presentation slide.

. Concerns were raised in relation to the NPPF; Members felt that this was dictating that approval be given.

. It had been reported in the local press that Members of the Planning Committee had been bullied following the circulation of additional information which had been sent separately to the main agenda papers. Members expressed that they did not feel bullied and the decision to be made would be within planning guidance and policy.

A vote then took place and the application was approved.

RESOLVED that planning application 13/2184/OUT be approved subject to the following conditions and informatives and subject to a Section 106 Agreement being signed as detailed in the Heads of Terms below and with conditions as changed within the update report.

Should the S106 agreement not be signed before the 26th November 2013 then the application be refused based on lack of adequate provision to make the development suitably operate, its inability to provide for future occupiers and it being contrary to policy requirements and the NPPF and the Core Strategy Development Plan.

1. Approved Plans

The development hereby approved shall be in accordance with the following approved plans;

Plan Reference Number
S1-001-Rev A

Date on Plan
23rd August 2013

2. Reserved Matters - Details

Approval of the details of the Appearance, Landscaping, Layout and Scale of the development known as the 'Reserved Matters' shall be obtained in writing from the Local Planning Authority before the development is commenced. The development shall be carried out in accordance with the approved plans

3. Reserved Matters - Time Period for submission

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

4. Period for Commencement

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

5. Street furniture

No development hereby approved shall be commenced on site until a scheme of street furniture including lighting columns has been submitted to and approved in writing by the local planning authority. The scheme shall include details of implementation and short term maintenance.

6. Surface Water Drainage / Run Off Rate No development shall commence on site until a scheme of surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail matters including discharge rates, overland flows, attenuation, future maintenance requirements and responsibilities and a timetable for implementation. The development shall be carried out in accordance with the approved scheme.

7. Foul Water Drainage

No development hereby approved shall be commenced on site until an adequate scheme has been submitted to and approved in writing by the Local Planning Authority which demonstrates that Foul Water Drainage from the site can be adequately dealt with taking into account connections and available capacity. The development shall be undertaken in accordance with the approved scheme.

08. Levels

The development hereby approved shall be carried out in accordance with a scheme of levels to be submitted to and approved in writing with the Local Planning Authority prior to the development commencing. The scheme shall detail existing and proposed land levels and finished floor levels of properties within the site.

09. Means of Enclosure

No development hereby approved shall be commenced on site until a scheme detailing boundary treatments has been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include a schedule of implementation of all boundary treatments and maintenance for those boundary treatments out-with property curtilages. The development shall be carried out in accordance with the approved details.

10. Minimise energy consumption

Prior to the above ground commencement of any of the development hereby approved, a written scheme shall be submitted to and approved in writing by the local planning authority which details how the predicted CO2 emissions of the development will be reduced by at least 10% through the use of on-site renewable energy equipment or the use of specific building materials. The carbon savings which result from this will be above and beyond what is required to comply with Part L Building Regulations or other such superseding guidance. Before the development is occupied the approved scheme of reduction shall have been implemented on site and brought into use where appropriate. The approved scheme shall be maintained in perpetuity thereafter.

11. Code construction

All residential units shall be built to achieve Code Level 4 of Lifetime Homes Standards or any other equivalent Building Regulation rating at the time of the submission of the application for reserved matters and shall have been agreed in writing with the Local Planning Authority before development commences.

12. No burning of waste.

During the construction phase of the development there shall be no open burning of waste on the site.

13. Construction working hours

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

14. Public Open Space

Development hereby approved shall not be commenced on site until the applicant has submitted to and had approval in writing from the Local Planning Authority for a scheme detailing arrangements for the provision of the Public Open Space and play facilities associated with the development. The scheme shall be in accordance with the Stockton on Tees Open Space, Recreation and Landscaping Supplementary Planning Document and shall address the following matters:

- a) The delineation and siting of the proposed public open space.
- b) The type and nature of the facilities to be provided within the Public Open Space including the provision of any play facilities.
- c) The arrangements the developer shall make to ensure that the Public Open Space and play facilities are laid out and completed during the course of the development and / or any phasing of provision.
- d) The arrangements the developer shall make for the short term and long term future management and maintenance of the Public Open Space and play facilities. Where Title Transfer is not proposed the management details shall be prepared for a minimum period of 25 years from practical completion of the completion of the POS works. (Refer to informative)

The Public Open Space and play facilities shall be completed in accordance with the approved scheme and phasing arrangements as agreed by the Local Planning Authority.

15. Existing Public Right of Way

The properties within the development hereby approved shall not be occupied until a scheme of works to upgrade the Public Right of Way to the south of the site has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable and arrangements for works to be carried out and the development shall be implemented in accordance with the approved scheme.

16. Archaeology

No development hereby approved shall be commenced on site until a programme of archaeological works for the western third of the southern field within the site, including a Written Scheme of Investigation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following;

- an assessment of significance and research questions;
- The programme and methodology of site investigation and recording;
- The programme for post investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall be undertaken in accordance with the Written Scheme of Investigation.

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 approved Written Scheme of Investigation and provision has been made for analysis, publication and dissemination of results and archive deposition has been secured.

17. Vegetation Clearance

Notwithstanding details hereby approved, no development hereby approved shall commence on site until a scheme of timing and methods of working practices relevant to vegetation clearance and site clearance has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved scheme.

18. Unexpected land contamination

In the event that contamination is found at any time when carrying out the approved development, works must be halted on that part of the site affected by the unexpected contamination and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority and works shall not be resumed until a remediation scheme to deal with contamination of the site has been carried out in accordance with details first submitted to and approved in writing by the Local Planning Authority. This scheme shall identify and evaluate options for remedial treatment based on risk management

objectives. Works shall not resume until the measures approved in the remediation scheme have been implemented on site, following which, a validation report shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include programmes of monitoring and maintenance, which will be carried out in accordance with the requirements of the report.

19. Lighting

The development hereby approved shall not be commenced until details of the lighting columns, light colour and luminance and details of any external lighting to properties has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

20. Species mitigation scheme

Notwithstanding details hereby approved, prior to the commencement of any part of the development including site clearance works, a detailed scheme of mitigation for species shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include but not be restricted to the methods of mitigation, locations of mitigation within the site and timing for the implementation of mitigation.

The development shall be undertaken in accordance with the approved scheme of species mitigation.

21. Construction Management Plan

The construction phase of the development hereby approved shall be undertaken in accordance with a Construction Management Plan (CMP) which has first been submitted to and approved in writing by the Local Planning Authority. The CMP shall detail HGV Routes and trip profiles, staff parking areas during construction and any mitigation measures required.

22. Stage 1 Safety Audit

For each phase of development a Road Safety Audit in line with national guidance should be undertaken in order to inform the Highway Authority on the safe operation of the proposed development, and shall be submitted to and agreed by the Local Planning Authority with each reserved matters application. The agreed findings will be implemented as approved.

23. Preliminary Risk Assessment

No development hereby approved shall be undertaken on site until a scheme of site contamination assessment and mitigation has been undertaken to the written satisfaction of the Local Planning Authority, in accordance with a scheme of such which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based around but not restricted to the scheme detailed within Sections 6, 9 and 10 of Fairshurst's Geo-Environmental Desk Study Report for Urray View Residential Development ref: D/I/D/91483/02/C as submitted on the 27th August 2013.

24. Bus Service

No more than 75 properties will be occupied within the development hereby approved until an extension to the local bus service/s has become operational which provides a daytime hourly service Monday to Saturday and a Sunday Service for a period of 5 years up to the Lartington Way South East Bus Stop ,

in accordance with a scheme of such which has first been submitted to and approved in writing with the Local Planning Authority.

25. Public Right of Way

No development hereby approved shall be undertaken until a scheme works to the Public Right of Way within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the timing of the works and the development shall be undertaken in accordance with the approved scheme.

26. Noise Mitigation scheme

No development hereby approved shall be undertaken until a scheme of noise mitigation has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail noise mitigation measures from surrounding land uses including the highways and railway. The development shall be undertaken in accordance with the approved scheme.

INFORMATIVES

Informative – Compliance with the National Planning Policy Framework

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

Informative - Title Transfer

It should be noted that the council will not generally accept Title Transfer of any areas of land containing easements unless such areas are additional to the main areas of POS provision and conform to the apparatus supplies restrictions e.g. do not contain structures or planting. This will relate to the majority of the land currently being out forward as public open space. As such, for this land to be taken into account as some form of open space, a management scheme for implementation in perpetuity would need to be agreed.

Small areas of open space would not be considered for title transfer to the council where they are not deemed to be usable open space for ball games and would therefore need to be maintained by Management Company.

Informative Gas Apparatus

Northern Gas Networks have advised that there may be gas apparatus in the area and that the developer contact them to discuss this. Contact details given are as follows;

Sandra Collett

Network Records Assistant

0845 6340508 (option 6)

Informative – Northumbrian Water

Northumbrian Water's apparatus is located in the development site, including a 375mm Trunk Water Main. They require unrestricted access to this apparatus at all times and will not permit the erection of buildings or structures over or within 6m to it. Any proposed crossing, landscaping, parking areas or tree planting must comply with the standard Northumbrian Water guidelines.

Diversion or relocation of the apparatus may be possible at the applicant's full cost. The Developer should contact Peter Heppell Advisor (tel 0191 419 6613) to agree the detailed scheme for the accurate location, protection of and access

to its apparatus in accordance with Northumbrian Water's standard easement conditions.

Informative - Biodiversity

The site may contain Great Crested Newts and other protected wildlife and their habitat. These or their habitat are formally protected under the Wildlife and Countryside Act 1981, and licences may be required to work / develop areas of the site. Appropriate contact should be made with Natural England in these regards.

Informative – Existing Landscaping

Some of the existing trees and hedges are considered to be important features of the site and beneficial for any site redevelopment in visual terms and for the benefits of screening. It is suggested that the existing landscaping is not removed from the site or affected until a final layout and landscape scheme has been agreed for the site. The reserved matters applications should incorporate existing landscaping into the site. Removal of any landscaping which has the ability to perform valuable functions for any future residential layout may need to be re-provided by large / numerous specimens to achieve suitable setting / screening for the development.

Informative – Landscaping

The Landscaping reserved matters for the site should take into account suitable species and their proximity to Network Rail infrastructure and existing wayleaves, the need to provide visibility splays and the benefits of continuous connections for wildlife.

Informative – SUDS schemes

In determining SUDS measures that can be incorporated into a surface water drainage scheme, the developer should refer to the advice given in CIRIA report C697, The SUDS Manual. The following is a summary of SUDS measures that may be incorporated into the drainage scheme by the developer.

Roadside swales

Swales are shallow vegetated channels designed to convey road runoff and treat pollutants, and can be used for treatment, attenuation and storage. There may need to be additional land take in order to provide space for swales between highways and footways.

Maintenance requirements are as follows:

Monthly inspections to identify mowing requirements;

Monthly litter removal;

Scarifying and spiking as required following inspection;

Repair damaged vegetation as required following inspection.

Roadside filter strips

Filter strips are roadside trenches filled with a permeable media to provide treatment and temporary storage of runoff before either infiltration or conveyance to downstream SUDS features. They can be used for treatment, attenuation and storage. There may need to be additional land take in order to provide space for filter strip between highways and footways. Due to their appearance, filter strips may not be suitable for use in residential areas.

Maintenance requirements are as follows:

Monthly inspections;
Weed control, as required, following inspections;
Replace clogged material, as required, following inspections.

Bio retention Areas

Bio retention areas are shallow landscaped depressed areas that are under drained and rely on enhanced vegetation and filtration to reduce runoff volumes and remove pollutants. They often rely on infiltration, but positive outfalls can be provided where ground conditions are unsuitable for infiltration. There may need to be additional land take in order to provide space within footway for bio retention areas, although often these areas can form part of the general landscape strategy. They rely on small catchment areas to avoid clogging. Maintenance requirements are as follows:

Monthly inspections;
Weed control, as required, following inspections;
Annual replacement of top mulch layer;
Replace damaged vegetation, as required following inspection;
Spiking or scarifying every 3 years.

Ponds

Ponds are basins that embody a permanent pool of water in the base. These may be formed within natural depressions or formed by excavation. The permanent pool provides the required treatment with temporary storage above providing flood attenuation for the required rainfall events. The development indicates a number of green spaces, and it may be possible to incorporate ponds into these green spaces that would provide both amenity and SUDS benefits.

Maintenance requirements are as follows:

Monthly inspections to determine frequency of maintenance activities;
Grass cutting following inspection, if required;
Bank clearance annually following inspection, if required;
Manage and repair landscaping following inspection, as required;
Forebay sediment removal, as required;
Sediment removal from main pond area, typically 25 years or greater.

Basins

Basins are either naturally occurring vegetated depressions, or excavated depressions in the ground designed to retain surface water runoff for the required period of time to allow treatment and attenuation to take place. If it is not appropriate to have permanent bodies of water incorporated into the green spaces, then shallow basins that only fill during periods of heavy rainfall may still be possible.

Maintenance requirements:

Monthly inspections to determine frequency of maintenance activities;
Grass cutting following inspection, if required;
Bank clearance annually following inspection, if required;
Manage and repair landscaping following inspection, as required.

Private SUDS measures

In addition to the above, and in accordance with Building Regulations Approved

Document H3, 2.6-2.13, the developer should consider the use of permeable surfacing to driveways and other private paved areas, or draining these areas onto/into soft landscaping in preference to a positive outfall. Permeable surfacing could comprise blockwork, or gravel driveways with flagged wheel tracks. Whilst underlying ground conditions may still result in some run-off from these areas, permeable surfacing may provide benefits in terms of attenuation and water quality improvements.

Development Phasing

The drainage strategy for the whole development should be planned such that it isn't reliant on futures phases, should the development be constructed in a phased manner. The philosophy of SUDS is that surface water is managed as close to source as possible. The incorporation of swales, ponds and basins alongside highways and in open green spaces will contribute towards a surface water drainage system that follows this philosophy.

Adoptability

SBC highways have confirmed that they are not averse to the use of SUDS features such as swales and ponds; however a full maintenance plan is required. As part of their surface water drainage strategy, the developer should prepare a SUDS management and maintenance strategy to be discussed and agreed with SBC.

The design of the drainage system should be carefully considered and discussed with both SBC and Northumbrian Water (NW), in order to ensure that the provision of elements within the system does not compromise the adoptability of other elements (for example, any piped systems that would be offered to NW for adoption under a Section 104 agreement). Particular elements of the drainage system, together with where the potential adopter of each element are summarised in the table below:

Drainage Element

Potential Adopter

Piped surface water drainage from buildings and highways, including oversized pipes used for storage	Northumbrian Water
Piped surface water drainage taking only run-off from highways and/or footways	Local Authority
Roadside swales	Local Authority
Bio retention areas	Local Authority
Ponds and basins	Local Authority/Private management company
Private SUDS measures would be maintained by the relevant home owners.	

HEADS OF TERMS

Highways

The provision of 7 off street car parking spaces close to Yarm High Street (or a financial contribution of £64,166), laid out in accordance with the operational requirements of SBC.

The provision of an additional crossing point (including dropped kerbs and tactile paving) on Uray Nook Road to improve connections to the south-east.

Pay a contribution of £10,000 for improving cycle parking in Yarm Centre payable upon first occupation of the site.

Pay a Bus Stop improvement scheme contribution of £18,000 or an alternative costed figure for works to the Lartington Way south east bus stop. Payable within 12 months from the date of 1st occupation of the site.

Elton Interchange Works. If the applicant has not entered into a S278 Agreement with the Council for the provision of the works prior to the occupation of the 20th dwelling, the applicant will pay a contribution towards works at Elton Interchange. This figure is yet to be confirmed.

Enter into a S278 Agreement for the following works;

- Provide the cycle link between Lartington Way and Lingfield Drive
- The Junction improvements at the Durham Lane / A66 Elton Interchange, these being;
 - Northern dumbbell improvements
 - Durham Lane – increase approach flare by 3m
 - Darlington Road – increase approach flare by 2m
 - Southern dumbbell improvements
 - Increase approach flare by 3m

Travel Plan

Prior to commencement of development, submit a Travel Plan for approval by the Local Planning Authority including a proposal to ensure the appointment of a Travel Plan Co-ordinator for a minimum of 5 years, details of the welcome/marketing pack that is to be given to buyers/occupiers, including any electronic media (e.g. webpage); incentive payments of £100 per dwelling. The Travel Plan Co-ordinator should devise a list of priorities for the remaining funding should all dwellings not take up this incentive.

Affordable Housing

The provision of 20% of the units within the site shall be provided as affordable housing. Affordable housing shall be provided as follows unless an alternative scheme is agreed in writing with the Local Planning Authority;

75% of which will be 2 bedroom properties and 25% 3 bedroom properties.

Tenure based on 75% 2 bedroom properties and 25% 3 bedroom properties would then be split as follows:

of the 2 bed units. Two thirds shall be Rented Tenure and one third of units will be Intermediate Tenure.

%s of units shall be rounded up or down accordingly. All affordable housing will comply with the Homes and Communities Agency space/quality standards.

Education

Contributions to primary and secondary school places will be based on the councils formula subject to index linked inflation. The wording of the Heads of Terms for Education is yet to be finalised and will be reported to committee by way of an update report.

Public Open Space

Prior to the Occupation of the First Dwelling the Owner shall submit to the

Council for approval a Public Open Space Maintenance Plan (such approval not to be unreasonably withheld or delayed) which may include provision for the transfer of the Public Open Space either to the Council (subject to the agreement of the Council and the payment of a commuted sum as a 25 year maintenance charge) or (at the discretion of the Owner) a management company experienced in the management and maintenance of land and facilities similar to the POS.

If the POS is not transferred to the Council, to manage and maintain the Public Open Space in accordance with the Public Open Space Maintenance Plan in perpetuity.

Ecological Enhancement Scheme

Agree in writing with the LPA an ecological enhancement scheme prior to commencement of development and comply with the requirements of the approved plan thereafter.

Education

A financial contribution to primary school needs within the Primary Planning Area within which the Development is to be located to be calculated on the Occupation of the 25th Dwelling in accordance with the First Formula and payable on dates to be agreed.

A financial contribution to secondary school needs within the Secondary Planning Area within which the Development is to be located to be calculated on the Occupation of the 25th Dwelling in accordance with the Second Formula and payable on dates to be agreed

**P
75/13**

12/1762/VARY

Land West Of Stillington, Stockton on Tees

Erection of 4 No. wind turbines (max. height 125m) and associated infrastructure to include anemometer masts, access roads, crane pads, control building, substation and temporary construction compound.

Consideration was given to a report on planning application 12/1762/VARY Land West of Stillington, Stockton on Tees.

The Planning Committee had previously granted conditional planning permission on the 7th December 2011 for the erection of a wind farm at Lambs Hill, Stillington including all ancillary development. The application was approved subject to a total of 46 conditions which dealt with wide ranging matters including noise (Conditions 40-45).

The applicant had submitted a Section 73 application to undertake the development without compliance with condition 45 which relates to the control of a certain type of noise generally termed 'Excess or Other Amplitude Modulation'(EAM), which is any noise whose amplitude (perceived loudness) modulates (goes up and down in level) over time. As part of the submission, a revised Environmental Management Plan (EMP) had been put forward which detailed working practices and procedures including those associated with how noise complaints would be dealt with which were out-with the ability for the remaining conditions to deal with. The submission had also put forward a new condition which placed a requirement on the wind farm operator to carry out

monitoring and mitigation in accordance with the Environmental Management Plan.

The existing approved scheme (10/2549/EIS) was unaffected by this application and would remain in force regardless of its outcome and which allowed for a commencement of the wind farm development up until the 7th December 2016 and a 25 year operational life.

Following approval of 10/2549/EIS the applicant considered that the imposition of Condition 45 is unlawful and that there is no guidance or policy to suggest that the local planning authority would be justified in imposing planning conditions to guard against potential impacts that are no more than statistically highly unlikely to occur. The applicant had advised that the issue of AM had been considered at length in wind farm inquiries throughout the UK and had cited a number of these. In the same vein as the debate within the Inquiries and the Inspectors reasoning in reaching a decision, the applicant considered that Condition 45 was imposed by the Council based on methodology which was not robust and results would be open to contamination to extraneous noise sources, and that there was no ability at the time, based on the current level of scientific understanding to measure turbine noise modulation levels external to a property, in the presence of other ambient noise sources with sufficient accuracy and repeatability.

This is an application in its own right and although the applicant was requesting only the removal of Condition 45, the Local Planning Authority were required to consider the application as a whole, and any material changes to it, the impacts of those and the impacts of any changes in policies relevant to the proposal. The authority could therefore approve the application, refuse it, or add / change conditions, depending on relevant material planning considerations. As the application was a challenge to the councils previously imposed condition relating to a relatively specialist matter, officers sought the advice of Counsel and of a noise consultant (Hoare Lea Acoustics).

In determining the application the council were required to consider whether the condition could reasonably be retained and if not, what other mechanisms were available to control relevant matters or whether the application should be refused due to lack of control over impacts, taking into account their nature.

A number of objections had been received in respect to this proposal as well as submissions from a consultant (MAS Environmental) acting on behalf of a group of objectors.

Objectors essentially considered that condition 45 gave protection against a type of noise generated by the wind turbines which could generate noise intermittently, that was not possible to predict when and where it would occur, that it could affect properties over 1km from the turbines and that the particular noise 'Excess or Other Amplitude Modulation' could cause severe disturbance to residents, particularly at night. Objectors had cited examples of other wind farm sites where cases of such noises occurred and where people had had to leave their properties as a result. The consultant acting on behalf of some objectors had suggested that the wind industry did not want such conditions imposing and Amplitude Modulation was far more wide spread than experts would agree to be the case that he had been successful in predicting its occurrence and had monitored it on many sites and that residents required

protection from it. Objectors also considered that the revised Environmental Management Plan was worded too loosely and had too much ambiguity to be able to properly control the matter. Objectors therefore considered that either, the condition should remain, or a variation to it or the Environmental Management Plan should be re-drafted to ensure there was greater certainty and control over how complaints relating to Amplitude Modulation would be dealt with to a satisfactory degree should they occur.

Since the approval of application 10/2549/EIS in December 2011, there had been no significant change to local planning policy on matters relevant to this proposal as both saved Local Plan Policies and Core Strategy Planning Policies were and remained relevant. Emerging policy of the Regeneration and Environment Local Development Document (at preferred options stage) could now be given some weight. The Regional Spatial Strategy had been revoked so no further reliance could be placed on its wind / renewable energy based policies. The companion guide to Planning Policy Statement 22 had similarly been revoked which was a key document. New documents produced included DCLG's 'Planning Practice Guidance for Renewable and Low Carbon Energy' – July 2013.

The initial wind farm application was supported by an Environmental Impact Assessment (EIA). In view of the proposal seeking to remove a condition relating to a noise type which was not a fundamental part of the initial EIA, the requirement for an update to the EIA was considered to be unjustified.

The impacts of the wind farm had been re-considered against all previously considered matters and there were no notable changes in policy or circumstances which would suggest a different view should be taken to matters (excluding noise), particularly when taking into account the commencement date for the approved scheme being the 7th December 2016. There were no concerns to the new scheme from consultees with responsibility for air traffic safety, ornithology, archaeology, cultural heritage, pollution, highway safety or microwave links. Advice from the Councils noise consultant was that Amplitude Modulation was in the early stages of being fully understood and as such could not be adequately controlled by condition, instead the consultant had suggested that reliance was placed on the applicants Environmental Management Plan and the Statutory Nuisance Legislation should it be required.

Condition 45 was imposed as a precautionary measure as there was no direct evidence that excess amplitude modulation would occur at this site. The latest government endorsed guidance in respect to Excess or Other Amplitude Modulation (May 2013) indicated that the evidence in relation to this was still developing and current practice was to not impose conditions in respect to Amplitude Modulation. Having reviewed a number of recent appeal decisions which had been carried out at Inquiry, planning inspectors were avoiding the imposition of conditions relating to amplitude modulation, generally citing there being insufficient evidence to warrant such a condition being imposed. The council's independent acoustician had advised that amplitude modulation was still unpredictable and not fully understood, that condition 45 was not suitable considering that a purely objective procedure could not be so simply implemented on an automated basis that could be made adequately robust as it would require a very significant amount of user intervention. The Councils consultant acoustician considered that were this unpredictable phenomenon to

occur, it should be dealt with through the provision of an Environmental Management Plan. In view of these matters, notwithstanding there being notable objections and challenges to the submission from local residents and their representatives, officers considered that there was insufficient evidence to suggest amplitude modulation would occur at the site and the impacts of this could therefore not be predicted. It was further considered that the overall method of controlling such a phenomenon (measurement, assessment and mitigation) would be too constrained by the condition to be practically controlled or enforced and for it to ensure that all occurrences of amplitude modulation would be addressed. Its retention had the potential therefore to compromise the council's ability to take restraining action for statutory nuisance where the noises were within the limiting controls of the noise conditions. It was the Head of Planning's opinion therefore that the council should, in this instance, remove condition 45 in accordance with current best practice.

Whilst it was accepted that condition 45 of the initial approval should not be retained, there remained an opportunity to secure greater control than simply relying upon statutory nuisance legislation. Achieving this intermediate control (between the existing Condition 45 and Statutory Nuisance powers) would remove any initial burden on the Local Authority for monitoring, assessing and mitigating any extraneous noise based issues of the wind farm scheme and leave this with the wind farm operator. A condition to that effect was suggested by the applicant along with an Environmental Management Plan. Officers considered, however, that these were insufficiently robust and counsel had advised the same. The Head of Planning had therefore recommended a new condition 45 which required the wind farm operator to undertake the construction, operational and decommissioning phases of the wind farm in line with the Environmental Management Plan. This will be updated on an annual basis with the agreement of the Local Planning Authority to take account of any changes in best practice or in the monitoring, assessment or mitigation of matters being controlled and subject to an agreed scheme of how and when compliance / non-compliance with the Environmental Management Plan should be dealt with.

It was considered that the proposal accorded with the National Planning Policy Framework saved Local Plan Policies EN4 and EN30, Core Strategy Policies CS3 and CS10 and Emerging Policies SP1, SP3, T1, SL1, ENV5 and HE1 of the councils Regeneration and Environment Local Development Document which is at preferred options stage. It was considered that the proposal was contrary to saved Local Plan Policy EN13, however the weight attached to Saved Local Plan Policy EN13 with regards to this scheme was outweighed by the other policies.

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

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

Planning Policy

National Planning Policy Framework (extracts)

The NPPF advises that the role of planning is to contribute to the achievement of sustainable development which is taken as including;

- an economic role, contributing to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure.

- A social role, supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

NPPF March 2012. Para. 7

The NPPF advises that there is a presumption in favour of sustainable development which for decision makers this means:

- approving development proposals that accord with the development plan 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

NPPF March 2012. Para. 14

There are 12 core planning principles within the NPPF which include for planning to be;

- genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area,

- be a creative exercise in finding ways to enhance and improve the places in which people live their lives,

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy)

contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework; encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value; promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);

NPPF March 2012. Para. 17

The NPPF advises that the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;

NPPF March 2012. Para. 109

When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

NPPF March 2012. Para. 118

In doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

NPPF March 2012. Para. 122

With regard to Planning policy 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 Plans for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is: - the Adopted Stockton on Tees Local Plan (STLP) and the Stockton on Tees Core Strategy Development Plan.

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

Members were presented with an update report containing additional comments from 3 residents. The matters detailed within the additional representations had been taken into account within the main report and there had been no new

information within their comments which required consideration.

The Planning Officers report concluded that the proposal was considered against the submission under 10/2549/EIS as well as the current submission in the context of the Environmental Impact Assessment / Statement, consultee and consultation responses, its associated impacts and other environmental information / impacts, in particular in respect to noise. The impacts of the proposal had been considered against national and local planning guidance and other relevant documents. There were no changes in the scheme or in planning guidance which would suggest a different view should be taken on all matters (excluding noise) to the considerations reached in determining application 10/2549/EIS.

Condition 45 was imposed as a precautionary measure as there was no direct evidence that excess amplitude modulation would occur at this site. The latest government endorsed guidance in respect to Excess or Other Amplitude Modulation (May 2013) indicated that the evidence in relation to this was still developing and current practice was to not impose conditions in respect to Amplitude Modulation. Having reviewed a number of recent appeal decisions which had been carried out at Inquiry, planning inspectors were avoiding the imposition of conditions relating to amplitude modulation, generally citing there being insufficient evidence to warrant such a condition being imposed. The council's independent acoustician had advised that amplitude modulation was still unpredictable and not fully understood, that condition 45 was not suitable considering that a purely objective procedure could not be so simply implemented on an automated basis that could be made adequately robust as it would require a very significant amount of user intervention. The Councils consultant acoustician considered that were this unpredictable phenomenon to occur, it should be dealt with through the provision of an Environmental Management Plan. In view of these matters, notwithstanding there being notable objections and challenges to the submission from local residents and their representatives, officers considered that there was insufficient evidence to suggest amplitude modulation would occur at the site and the impacts of this could therefore not be predicted. It was further considered that the overall method of controlling such a phenomenon (measurement, assessment and mitigation) would be too constrained by the condition to be practically controlled and for it to ensure all occurrences of amplitude modulation would be addressed. Its retention had the potential, therefore, to compromise the council's ability to take restraining action under statutory nuisance legislation where the noises were within the limiting controls of the noise conditions. It was the Head of Planning's opinion therefore that the council should, in this instance, remove condition 45 in accordance with current best practice (alongside the associated informative).

Notwithstanding this, in order to achieve some control over the implementation of the Environmental Management Plan which the applicant was referring to as a method of some control over matters, a condition was recommended requiring adherence to the Environmental Management Plan, subject to regular review to ensure an up to date document was operational through the lifetime of the wind farm and subject to further agreement via condition relating in respect to matters of how and when compliance / non-compliance should be dealt with.

Beyond control by conditions and the operation of the Environmental

Management Plan, the Statutory Nuisance regime would remain available to address unpredicted problems of noise. This would take into account the findings of recent planning appeal Inquiry's for wind farm development and other guidance.

In view of all matters detailed, it was considered that the proposals accorded with the guidance of the practice /companion guides to PPS5 & PPS9, the National Planning Policy Framework, Saved Local Plan Policy EN4 and EN30, Core Strategy Policies CS3 and CS10, and emerging policies as detailed within the report. The proposal was contrary to saved Local Plan Policy EN13, the guidance of which was considered to be not specifically relevant to this development type.

It was recommended that the application be approved as detailed within the main report.

Objectors were in attendance at the meeting and were given the opportunity to make representation. Their comments could be summarised as follows:

- Bishopton Crossing was living in the shadow of the wind turbine.
- A common reaction between developers, residents and officers of the Planning Committee was that the readability of the material outlining the new proposal and its use of technical jargon had made it difficult to understand, including trying to access the information online.
- Residents expressed that they had produced evidence that Stockton Borough Council Officers could not be confident of the assurances given.
- There were 457 associated documents that the Committee could not have possibly read.
- Residents did not know what would hit them if condition 45 was removed.
- A resident from Moorhouse Farm who was in attendance at the meeting had requested that their objection be read out, which stated that they opposed the removal of condition 45 and believed it was there to protect residents. Mental and physical health would deteriorate. Their lives were in the hands of the Committee. Their lives would not be the same.
- A deferment was suggested to enable residents to seek expert advice due to the complexity of the report which residents had only been given 5 days to read.
- Residents did not want the wind farm in the first place however if they had to accept it they also required protection and the Council had originally voted for condition 45 in the original application of the wind farm.
- The noise from the wind farm could bring into effect the human rights act 1988.
- It was highlighted, that currently, Lambs Hill was one of the most tranquil places to live and would be spoilt if condition 45 were removed.
- A resident who expressed that she lived only 800 metres away from a

proposed wind turbine stated that condition 45 was needed to protect against EAM noise.

- There was no screening between an objectors house and wind turbine.
- There was new evidence emerging on landscapes of EAM noise and it was suspected that developers would no longer try the argument that EAM noise was rare as the condition was not as rare as developers first made out.
- Reference was made to the Den Brook Appeal decision as detailed within the report, the committee were asked to accept what had been decided at the court of appeal and defer the application.
- There was no current guidance or best practice regarding EAM noise

The applicants representatives and Officers were in attendance and were given the opportunity to make representation. Their comments could be summarised as follows:

- The application was not just to remove condition 45 but to replace it with a better condition that would be in place for the entire life of the wind farm.
- The developer had worked closely with Stockton Borough Council to make sure that the replacement condition would be the best for residents.
- If Officers recommendations were followed it would form part of the Planning conditions and be enforceable if issues were raised by local residents.
- The councils noise consultant had advised that condition 45 was not enforceable or reasonable 45 which was the reason to introduce the new condition.
- The new condition would link to the Environmental Management Plan which would protect residents should noise matters arise.
- Officers were not aware of any appeal decision in the last couple of years that had an EAM condition attached to it.
- Advisors to the Council and the institute of acoustics had considered that it was not good practice to deal with EAM by condition.
- Residents had the same amount of time as Members to read the documentation.

Members were given the opportunity to ask questions/make comments on the application and these could be summarised as follows:

- Concerns regarding human hearing and the levels at which noise could be heard.
- That the frequency referred to within the report was background energy below human hearing which travelled further during the night and therefore more likely to be picked up by residents at that time.

- If it was reported by those in support of the proposal that EAM did not exist then why was condition 45 being considered to be removed?
- Residents' concerns were shared by members which included the complexity of the reports. It was stated that residents should be protected. People's lives could be made a misery as there had been issues in other areas regarding low level noise.
- The latest condition had not been given enough time to seek advice and understand and it needed explaining in layman terms.
- Condition 45 was a precautionary measure; if it served no purpose why go to such lengths to remove it.
- When had a developer ever appealed against the removal of a condition in the favour of residents
- Members felt that further information was needed on EAM in relation to condition 45 to enable them to make a decision on the application.

Members considered refusing the application but a motion was moved and seconded to defer the determination to enable members to have more time to consider the report and to receive advice in layman's terms on the complex and technical issues in the report next time it was presented to committee.

RESOLVED that planning application 12/1762/VARY be deferred to a future Planning Committee meeting.

**P
76/13**

**13/2397/FUL
Land to the East and South Of, Holy Trinity Church, Upsall Grove
Application for construction of 3 m wide segregated footpath/cycleway on
existing public open space.**

Consideration was given to a report on planning application 13/2397/FUL Land to the east of, Holy Trinity Church, Upsall Grove, Stockton on Tees.

Planning permission was sought for consent for the installation of a 3.0m wide segregated footpath/cycleway within West Hartburn. The cycleway/footpath would link Killinghall Grove and Sawley Grove with Greens Lane via an existing crossing on Upsall Grove. The development was part of a wider scheme in West Hartburn to improve cycleway and footway links.

The development was located on public open space and was largely away from residential property boundaries however there were two links to existing accesses from Killinghall Grove and Sawley Grove and these existing accesses were located between residential properties.

Two letters of support had been received from residents and one letter stating no objection to the scheme. No objections had been raised by Technical Services or Sport England.

Under the Council's Scheme of Delegation, the application was put forward for determination by the Planning Committee as the scheme did not constitute minor development.

Overall, it was considered that due to the nature of the works there would be no significant detrimental visual impact subject to replanting requirements and due to the cycleway/footpath linking to existing footpath accesses on Killinghall Grove and Sawley Grove it was considered the proposal would not significantly increase the existing impact from the use of the public open space area on residential amenity. The proposal was considered to be acceptable in policy terms and also fit with the aims and objectives of the Local Transport Plan, the Sustainable Travel Strategy and the Green Infrastructure Strategy as it would contribute to the improvement of the cycling and walking network within the central area of the borough.

The application was therefore recommended for approval subject to conditions.

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

Neighbours had been notified by letter and Site Notice and the comments received 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 indicated 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 15 Jan 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 required 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

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 application be Approved with Conditions for the reasons specified within the main report.

A vote then took place and the application was approved.

RESOLVED that planning application 13/2397/FUL 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);

Plan Reference Number Date on Plan
SBC/11/5-F 23 September 2013
TS/D1/298/01/101 23 September 2013

Conditions to be implemented

02 Notwithstanding the proposals detailed in the application, prior to the commencement of soft landscaping works 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 indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed unless otherwise agreed with the LPA in writing in the first planting season following: commencement of the development or agreed phases or prior to the occupation of any part of the development and the development shall not be brought into use until the scheme has been completed to the satisfaction of the Local Planning Authority.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

The Local Planning Authority have implemented the requirements of the National Planning Policy Framework

P 77/13 Five year housing supply 1st October 2013 to 30th September 2018 (2nd quarterly update report)

Consideration was given to a report that updated Members on the completion of the 2nd quarterly update of the Deliverable Housing Supply Final Assessment.

The Head of Planning presented the report to the Committee and highlighted the following key areas:

. That the guidance in the NPPF stated that a 5% or 20% buffer must be added to the supply of deliverable sites, depending on whether or not there had been a record of persistent under-delivery of housing. Members were reminded that the issue of whether to add a 5% or a 20% buffer was debated at the Low Lane, Ingleby Barwick Public Inquiry. The Inspector commented in his report that; 'Over the CS plan period, the Council agreed that there had been persistent under-delivery'. In the context of the Inspector's report it was now considered necessary to add a 20% buffer to the requirement for a five year supply of housing sites.

It was shown within the report that the authority had delivered a housing supply of 4.23 years with a 20% buffer added; this was a shortfall of 559 dwellings. That meant that the authority was not able to demonstrate a five year supply of deliverable housing sites.

The Next steps were that the information contained within appendix 1 of the

main report would be used to inform officer recommendations regarding relevant planning applications.

RESOLVED that the 2nd quarterly update report of the Deliverable Housing Supply Final Assessment, be noted.

**P
78/13** **Initial Working Draft - Supplementary Planning Document 8 - Affordable Housing**

Members were asked to consider the Initial Working Draft – Supplementary Planning Document 8 – Affordable Housing and were asked to note its contents and provide any comments or suggestions they would like to make to the Head of the Planning department.

The Head of Planning highlighted to members that the previous version of the report included reference to 20% affordable housing provision as the standard target. However the Inspector in his report following the Low Lane, Ingelby Barwick public Inquiry commented, ' ... it is inescapable that the provision of affordable housing at a rate of 15% clearly falls within the range of 15-20% set out in CS policy 8 criterion 5'.

Public consultation was scheduled for December 2013.

RESOLVED that:

1. the content of the report be noted including the 'initial working draft Supplementary Planning Document 8 – Affordable Housing'.
2. Members provide any comments or suggestions relating to the reports to the Head of Planning.