

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

5 FEBRUARY 2014

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

13/3077/VARY

Land at Low Lane, High Leven, Yarm

Section 73 application to vary wording of condition no.6 (Open Space Strategy), 8 (Renewable Energy), 14 (Construction Method Statement) and 15 (Surface Water Management Scheme) of planning approval 12/2517/OUT - Outline application for the erection of Ingleby Manor Free School and Sixth Form and residential development (350 dwellings) including means of access

Expiry Date: 7 March 2014

SUMMARY

The application site lies to the south-east of the existing settlement of Ingleby Barwick and is currently a series of open fields bounded by hedgerows. The residential properties of Regency Park and Priorwood Gardens bound the site to the west and north-west respectively, whilst Low Lane lies to the south of the site.

Members will be aware that recently a planning application was submitted and refused by the Planning Committee for outline planning permission for the erection of Ingleby Manor Free School and a residential development of 350 dwellings (ref; 12/2517/OUT). The appeal was heard at a public inquiry with the Secretary of State recovering the decision and who allowed the appeal. As part of the appeal both the Planning Inspector and the Secretary of State concluded that whilst there was harm to the green wedge, the character and appearance of the area and recreational opportunities, the policies within the National Planning Policy Framework (NPPF) carried such weight that they outweighed those of the development plan.

This application under Section 73 of the Town and Country Planning Act (1990), seeks to vary the wording of four conditions (No.'s 6, 8, 14 & 15) which would allow for the Free School to be developed ahead of any housing development. The application does not seek to alter the overall scale of the development which remains for the Ingleby Manor Free School and a residential development of 350 dwellings.

Given that the proposed amendments to the planning conditions, would not result in any significant changes to the previously approved school and housing scheme. The proposed development is considered to be in accordance with guidance within the NPPF and the Secretary of State's previous decision that any harm which would occur is outweighed by the benefits of addressing the Borough's five year housing land supply and through improving choice in state school provision.

RECOMMENDATION

That planning application 13/3077/VARY be approved subject to the following conditions and informative and subject to a Unilateral Undertaking in accordance with the Heads of Terms detailed within the report below;

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

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>SBC001</i>	<i>6th December 2013</i>
<i>8067SCG/7</i>	<i>21st January 2013</i>

Reason: To define the consent.

- Reserved matters;**
02 *Details of the appearance, landscaping, layout, and scale of each phase of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before development of the phase concerned begins, and the development shall be carried out as approved.*

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

- Time limit for submission of the reserved matters;**
03 *Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.*

Reason: By virtue of the provisions of Section 92 of the Town and Country Planning.

- Time limit for commencement;**
04 *The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.*

Reason: By virtue of the provisions of Section 92 of the Town and Country Planning Act 1990.

- Phasing programme;**
05 *No development shall take place until a Phasing Programme for the development hereby permitted has been submitted to and approved in writing by the local planning authority. This shall identify the phasing of infrastructure, landscaping, public open space (in accordance with the Open Space Strategy), accesses, the Free School and Sixth Form and associated facilities, and residential areas within the development permitted herein. Development shall be carried out in accordance with the approved Phasing Programme.*

Reason: To ensure the co-ordinated progression of the development and the provision of the relevant infrastructure to each individual phase.

- Open Space Strategy;**
- 06 **No housing development shall take place until an open space strategy has been submitted to and approved in writing by the Local Planning Authority. This shall identify the extent, location and design of public open space within the development permitted herein. Development shall be carried out in accordance with the approved open space strategy.**
- Reason: To enable the Local Planning Authority to satisfactorily control the development**
- Dwelling numbers**
- 07 **The total number of dwellings authorised by this permission shall not exceed 350.**
- Reason: To ensure a satisfactory form of development.**
- 10% Renewable energy requirement**
- 08 **No school development shall take place until details of how the Free School and Sixth Form will meet at least 10% of its predicted energy requirements, on site, from renewable energy sources, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**
- 09 **No housing development shall take place on any phase of housing until details of how the housing in that phase will meet at least 10% of its predicted energy requirements, on site, from renewable energy sources, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**
- Code for sustainable homes;**
- 10 **The dwellings approved herein shall achieve Code Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.**
- Reason: In order to minimise energy consumption in accordance with Stockton-on-Tees Adopted Core Strategy policy CS3**
- BREEAM rating;**
- 11 **The Free School and Sixth Form shall achieve a BREEAM ‘excellent’ rating and shall not be brought into use until achievement of that rating has been certified.**
- Reason: In order to minimise energy consumption in accordance with Stockton-on-Tees Adopted Core Strategy policy CS3**
- Construction activity;**
- 12 **No construction activity shall take place except between the hours of 0800 and 1800 on Monday to Friday and 0900 and 1300 on Saturdays. There shall be no construction activity on Sundays or Bank Holidays.**

Reason: To ensure that the development does not prejudice the enjoyment of neighbouring occupiers of their properties.

No open burning;

- 13 ***No waste products derived as a result of the development approved herein shall be burned on the site except in an appliance first approved in writing by the local planning authority.***

Reason: In the interests of the amenities of the area.

Construction Management Plan;

- 14 ***No development shall take place on the school, housing or infrastructure of the development until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority relevant to that element of the development hereby approved. The approved CMS shall be adhered to throughout the construction period relating to that element of the development and shall provide details of the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities to public viewing, where appropriate; wheel washing facilities; measures to control and monitor the omission of dust and dirt during construction; a Site Waste Management Plan; details of the routing of associated HGVs; measures to protect existing footpaths and verges; and a means of communication with local residents.***

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

Surface Water Drainage;

- 15 ***No development on the separate school or housing elements of the development shall take place until a scheme for the management of surface water during the construction phase and thereafter, including sustainable drainage measures, specific to that element of the scheme (school or housing) has been submitted to and approved in writing by the local planning authority. Surface water run-off from the site shall be limited to 42l/s. Development shall be carried out in accordance with the approved details.***

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development.

Watercourse buffer zone

- 16 ***No development shall take place until a scheme for the provision and management of a 5 metre buffer zone around the watercourse has been submitted to and approved in writing by the local planning authority. The buffer zone shall be implemented in accordance with the approved details and retained as such thereafter.***

Reason: Development that encroaches on watercourses has a potentially severe impact on their ecological value. For example, artificial lighting disrupts the natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat.

- Ecological Survey;**
17 **No development shall take place until a timetable for the implementation of the ecological mitigation measures within the Extended Phase 1 Habitat Survey (The Appleton Group, October 2012) and the Survey of Trees for Bat Roosting and Foraging Potential (Martin Prescott Environmental Services, January 2013) has been submitted to, and approved in writing by, the local planning authority. The ecological mitigation measures shall be implemented in accordance with the approved timetable.**

Reason: To conserve protected species and their habitat

- Archaeological Works;**
18 **No development shall take place in any particular phase of the development until a programme of archaeological work for the phase concerned, including a written scheme of investigation, and a timetable, has been submitted to and approved in writing by the local planning authority. The archaeological work shall be carried out in accordance with the approved details.**

Reason: In the interests of the preservation of any archaeological remains

- Unexpected land contamination**
19 **If during the course of development of any particular phase of the development, contamination not previously identified is found to be present, then no further development on that phase shall be carried out until the developer has submitted to, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be carried out as approved.**

Reason: Unexpected contamination may exist at the site which may pose a risk to human health and controlled waters

- Noise protection – traffic noise**
20 **No development shall take place until a scheme for the protection of habitable rooms within the dwellings from the effects of traffic noise has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.**

Reason: To protect the amenity of the occupants of the dwellings from excessive traffic noise.

- Community use agreement;**
21 **The Free School and Sixth Form shall not be brought into use until a scheme for the wider use of the facility by the community has been submitted to and approved in writing by the local planning authority. The Free School and Sixth Form shall be operated in accordance with the approved scheme.**

Reason: To ensure the satisfactory management arrangements are made for public use of the facilities.

- Restriction on Permitted development rights – School only:**
22 The Free School and Sixth Form shall be used for those purposes and for no other primary purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To enable the Local Planning Authority to retain control over the development

INFORMATIVE OF REASON FOR PLANNING APPROVAL

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

HEADS OF TERMS

- Employment and Training - 10% local employment and materials
- 15% Affordable Housing provision
- Contribution toward highway Improvement works £100,000 highway improvements at Low Lane and £377,250 towards 'west side highway improvements' of Ingleby Barwick
- Contribution of £728,000 toward education provision
- Financial contributions towards footways and cycleways improvements (£104,600 & £20,900)
- Contribution of £10,000 towards restriction of parking on Regency Park
- Requirement for a 'residential travel plan'

BACKGROUND

1. Outline planning permission was originally sought in the mid 1970's for outline planning permission for residential development, with the later application being refused (refs; S1626/74 & S1629/75). A further application for residential and ancillary development was also refused and the subsequent appeal dismissed by the secretary of state (ref; S1389/88).
2. The land forming the application site was also envisaged as being part of village 7 of Ingleby Barwick. However, this village was later removed from the master plan and the development of Ingleby Barwick as a whole proceeded as 6 'villages'.
3. The site then gained approval for an 18-hole golf course and driving range, it was originally approved with outline planning consent in 1990 (ref; 90/1965/P) and was followed by an application in 1994 for the provision of a golf driving range, new access, services building and 30no. driving bays (ref; 94/0385/P) these planning consents were re-established in 1997 and renewed in 2000 and 2003, with the consent expiring in September 2006.
4. In August 2006 outline planning permission was then sought of a mixed-use development (ref; 06/2593/OUT) comprising of a family pub, play barn, lodge and children's nursery. This application was withdrawn. Following concerns over the loss of a greenfield site, the impacts on the green wedge, residential amenity, the open character of the site and

failing to satisfactorily demonstrate that the scheme would not have a detrimental impact on archaeological remains.

5. Most recently a planning application was submitted and refused at Planning Committee for outline planning permission for the erection of Ingleby Manor Free School and a residential development of 350 dwellings (ref; 12/2517/OUT). As members will be well aware, the planning merits of this case have recently been considered by the Planning Inspectorate at a Public Inquiry, with his report being passed to the Secretary of State, whom allowed the appeal.
6. In reaching his findings on the appeal, the Inspector reported that whilst he noted the harm to the green wedge policy, character of the area and recreational value of the site, in accordance with paragraph 14 of the NPPF, where the development plan is absent, silent, or out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In accordance with paragraph 47 of the NPPF, he judged that the Council's policies for the supply of housing could not be considered up-to-date as a result of a lack of 5 year housing land supply. Furthermore, in accordance with paragraph 72 of the NPPF 'great weight' was also placed on the provision of the 'free school' and accordingly he and the Secretary of State both concluded that whilst there was harm to the green wedge, the character and appearance of the area, and recreational opportunities, the policies within the National Planning Policy Framework (NPPF) carried such weight that they outweighed those of the development plan.

SITE AND SURROUNDINGS

7. The application site lies to the south-east of the existing settlement of Ingleby Barwick and is currently a series of open fields bounded by hedgerows. The residential properties of Regency Park and Priorwood Gardens bound the site to the west and north-west respectively.
8. Low Lane runs to the south of the site and a small collection of residential and commercial properties lie on the opposite side of the road. A small group of former farm buildings, known as 'Little Maltby Farm' and residential property 'Leven Lea' also lie to the east of the majority of the site. While Ingleby Mill Primary School lies to the west.

PROPOSAL

9. Planning Permission is sought under Section 73 of the Town and Country Planning Act (1990) to vary the wording of 4 conditions (No.'s 6, 8, 14 & 15) which would allow for the Free School to be developed and ahead of any housing development. The conditions relate to Open Space Strategy (no.6); Renewable Energy (no.8), Construction Method Statement (no.14) and Surface Water Management Scheme (no.15). The revised scheme does not alter the overall scale of the development which remains for the Ingleby Manor Free School and a residential development of 350 dwellings.
10. The applicant is proposing amendments to the conditions as show underlined, below;

Condition 6;

No housing development shall take place until an open space strategy has been submitted to and approved in writing by the Local Planning Authority. This shall identify

the extent, location and design of public open space within the development permitted herein. Development shall be carried out in accordance with the approved open space strategy.

Condition 8:

No school development shall take place until details of how the Free School and Sixth Form will meet at least 10% of its predicted energy requirements, on site, from renewable energy sources, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Condition 14:

No development shall take place on the school, housing or infrastructure of the development until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority relevant to that element of the development hereby approved. The approved CMS shall be adhered to throughout the construction period relating to that element of the development and shall provide details of the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities to public viewing, where appropriate; wheel washing facilities; measures to control and monitor the omission of dust and dirt during construction; a Site Waste Management Plan; details of the routing of associated HGVs; measures to protect existing footpaths and verges; and a means of communication with local residents.

Condition 15:

No development on the separate school or housing elements of the development shall take place until a scheme for the management of surface water during the construction phase and thereafter, including sustainable drainage measures, specific to that element of the scheme (school or housing) has been submitted to and approved in writing by the local planning authority. Surface water run-off from the site shall be limited to 42l/s. Development shall be carried out in accordance with the approved details.

CONSULTATIONS

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

Head of Technical Services

I refer to your memo dated: 12/12/13

General Summary

The Head of Technical Services has no objection to the proposed variation in conditions, subject to the comments below.

Highways Comments

The application proposes to vary four conditions of planning approval 12/2517/OUT, including condition 14 which outlines the requirements of the Construction Method Statement (CMS).

The proposed amendments to condition 14 would introduce a phased approach to the CMS. To summarise, the requested amendments would not allow development to commence on the school, housing or infrastructure elements of the development until the CMS has been

approved for that specific element of the scheme (rather than the development as a whole). There is no objection to this amendment as a CMS for each element of the site would still need to be agreed with the Highway Authority prior to construction commencing. This would include appropriate measures to minimise the highway impact during that element of the construction.

The Head of Technical Services therefore has no highway objection to the proposed amendments to condition 14.

Landscape & Visual Comments

Condition 6 (Open Space) – the revision that ties in the open space strategy to the housing is considered acceptable.

Environmental Policy

Condition 8 (Renewable Energy) - following further discussions it is understood that condition 9 of the appeal decision would control the 10% renewable energy requirements for the housing. Therefore there is no objection to the revision.

Flood Risk Management

Condition 15 (Surface Water Management) - the proposed amendments would require a scheme for the management of surface water to be agreed separately for each element of the site. There is no objection to this approach but it should be noted that the schemes are likely to be mutually dependent and for each element to be agreed, consideration will be given to any previously approved measures.

The Environment Agency

No comments received

Countryside and Green Space

No comments received

PUBLICITY

The surrounding residential properties were notified, a site notice was also displayed along with a press advertisement. A total of 14 objections have been received.

Objectors:

Mr Peter Chadwick - 1 Seymour Grove Eaglescliffe
Mr William March - 5 Beaver Close Ingleby Barwick
Anthony Harrison - 20 Simonside Grove Ingleby Barwick
Mrs Katia Lightfoot - 18 Regency Park Ingleby Barwick
Mr Peter Hadfield - 4 Regency Park Ingleby Barwick
Mr Peter Lightfoot - 18 Regency Park Ingleby Barwick
Mr Richard Clements - 20 Regency Park Ingleby Barwick
Mr David Bell - 37 Priorwood Gardens Ingleby Barwick
Ian Graham - 7 Acorn Bank Ingleby Barwick
Mr David Garbutt - 9 Priorwood Gardens Ingleby Barwick
Mr David Powell - 12 Acorn Bank Ingleby Barwick
Mrs Janice Graham - 10 Battersby Close Yarm
Mrs Christine Mundy - 28 Crosswell Park Ingleby Barwick
Sheila and Graham Tungatt - 19 Keld Close Ingleby Barwick

Objections:

Developer should abide by the Minister decision
The minister stated all conditions were reasonable and necessary
Enables construction of the school to proceed ahead of agreement over other issues.
Developer could 'cherry pick' most profitable options
Would allow relaxation in energy requirements
Exacerbate existing traffic problems
Will increase flooding risk elsewhere within the estate.
Stockton now has 6.5 years of house building already approved.
Already too many houses
Land is part of the Green Wedge
Lack of infrastructure/amenities linked with this project and across Ingleby Barwick
Will open up more land for development and housing
Free School not needed
Impact on/loss of wildlife.
Devaluation of property
Enough brownfield housing sites within Stockton
Question over length of lease for school and potential future development
Development runs contrary to Local Draft Development Plan and view of community
Already experience noise associated with traffic

PLANNING POLICY

12. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan.
13. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.
14. The following planning policies are considered to be relevant to the consideration of this application:-

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

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.

2. All major development proposals that are likely to generate significant additional journeys will be accompanied by a Transport Assessment in accordance with the

'Guidance on Transport Assessment' (Department for Transport 2007) and the provisions of DfT Circular 02/2007, 'Planning and the Strategic Road Network', and a Travel Plan, in accordance with the Council's 'Travel Plan Frameworks: Guidance for Developers'. The Transport Assessment will need to demonstrate that the strategic road network will be no worse off as a result of development. Where the measures proposed in the Travel Plan will be insufficient to fully mitigate the impact of increased trip generation on the secondary highway network, infrastructure improvements will be required.

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

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

1. All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.

2. All new non-residential developments will be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) of 'very good' up to 2013 and thereafter a minimum rating of 'excellent'.

5. For all major developments, including residential developments comprising 10 or more units, and non-residential developments exceeding 1000 square metres gross floor space, at least 10% of total predicted energy requirements will be provided, on site, from renewable energy sources.

8. Additionally, in designing new development, proposals will:

- _ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;

- _ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;

- _ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;

- _ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

Core Strategy Policy 6 (CS6) - Community Facilities

1. Priority will be given to the provision of facilities that contribute towards the sustainability of communities. In particular, the needs of the growing population of Ingleby Barwick should be catered for.

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

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

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

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

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

Core Strategy Policy 10 (CS10) Environmental Protection and Enhancement

3. The separation between settlements, together with the quality of the urban environment, will be maintained through the protection and enhancement of the openness and amenity value of:

i) Strategic gaps between the conurbation and the surrounding towns and villages, and between Eaglescliffe and Middleton St George.

ii) Green wedges within the conurbation, including:

_ River Tees Valley from Surtees Bridge, Stockton to Yarm;

_ Leven Valley between Yarm and Ingleby Barwick;

_ Bassleton Beck Valley between Ingleby Barwick and Thornaby;

_ Stainsby Beck Valley, Thornaby;

_ Billingham Beck Valley;

_ Between North Billingham and Cowpen Lane Industrial Estate.

iii) Urban open space and play space.

4. The integrity of designated sites will be protected and enhanced, and the biodiversity and geodiversity of sites of local interest improved in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation, ODPM Circular 06/2005 (also known as DEFRA Circular 01/2005) and the Habitats Regulations.

Saved Policy EN28

Development which is likely to detract from the setting of a listed building will not be permitted.

Saved policy EN30

Development, which affects sites of archaeological interest, will not be permitted unless:

(i) An investigation of the site has been undertaken; and

(ii) An assessment has been made of the impact of the development upon the remains; and where appropriate;

(iii) Provision has been made for preservation 'in site'.

Where preservation is not appropriate, the Local Planning Authority will require the applicant to make proper provision for the investigation and recording of the site before and during development.

Saved Policy HO3

Within the limits of development, residential development may be permitted provided that:

- (i) The land is not specifically allocated for another use; and
- (ii) The land is not underneath electricity lines; and
- (iii) It does not result in the loss of a site which is used for recreational purposes; and
- (iv) It is sympathetic to the character of the locality and takes account of and accommodates important features within the site; and
- (v) It does not result in an unacceptable loss of amenity to adjacent land users; and
- (vi) Satisfactory arrangements can be made for access and parking.

Ministerial Statement – Policy Statement for Schools development (August 2011)

It is the Governments view that the creation and development of state-funded schools is strongly in the national interest and that planning decision makers can and should support that objective, in a manner consistent with their statutory obligations. We expect all parties to work together from an early stage to help plan for state school development and to shape strong planning applications. This collaborative working would help to ensure that answer to proposals for the development of state-funded schools should be, wherever possible “yes”.

The Government believes that the planning system should operate in a positive manner when dealing with proposals for the creation, expansion and alteration of state-funded schools, and that the following principles should apply with immediate effect;

1. There should be a presumption in favour of the development of state funded schools, as expressed in the National Planning Policy Framework.
2. Local Authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions. The Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining planning applications and appeals that come before him.
3. Local Authorities should make use of their planning powers to support state-funded schools applications. This should include engaging in pre-application discussions with promoters to foster a collaborative approach to applications and, where necessary, the use of planning obligations to help mitigate adverse impacts and help deliver development that has a positive impact on the community.

National Planning Policy Framework

15. Paragraph 14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking;
16. For decision-taking this means:
 - approving development proposals that accord with the development without delay;
 - and

- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or-
- specific policies in this Framework indicate development should be restricted.

17. The relevant sections of the NPPF, in the determination of this application include;

Section 1. Building a strong, competitive economy
 Section 4. Promoting sustainable transport
 Section 6. Delivering a wide choice of high quality homes
 Section 7. Requiring good design
 Section 8. Promoting healthy communities
 Section 10. Meeting the challenge of climate change, flooding and coastal change
 Section 11. Conserving and enhancing the natural environment
 Section 12. Conserving and enhancing the historic environment

MATERIAL PLANNING CONSIDERATIONS

18. The main planning considerations of this application are compliance with planning policy and the impacts of the development on the character of the area, the setting of a listed building, the amenity of neighbouring occupiers, highway safety, flood risk, protected species and residual matters.

Principle of Development;

19. Members will be aware that recently a planning application was submitted and refused by the Planning Committee for outline planning permission for the erection of Ingleby Manor Free School and a residential development of 350 dwellings (ref; 12/2517/OUT). The appeal was heard at a public inquiry with the Secretary of State recovering the decision and who allowed the appeal.

20. In summary of that decision, the main issue was considered to be whether any harmful impacts that would be caused by the proposals, were outweighed by any benefits the scheme had. To that end, whilst the Secretary of State noted that the site was within the designated green wedge and consequently that the development falls contrary to the development plan policies. He accepted that the degree of harm that the proposal would cause in relation to the green wedge designation, the character and appearance of the area, and the recreational value of the site would be limited and that the benefits of addressing the Borough's shortfall in the five year housing land supply regardless of whether or not the Free School and Sixth Form ever materialises were sufficient to justify the housing element of the proposals and that there was no need to link the two elements together. A copy of the Secretary of State's decision is attached to this report as an appendix.

21. Although many of the objections received to this application, raise issues which surround the principle of development (such as Ingleby Barwick having too many houses, the land being green wedge, it being contrary to development plan policies, the free school not being needed and there being sufficient brownfield sites available elsewhere in the Borough). These were all considered by the Secretary of State when granting the planning permission. Given that the proposed changes to the wording of the conditions

do not go to the heart of the permission, nor do they seek to remove the conditions, it is not considered that there is any significant change in circumstance which would justify a different decision being reached as to the acceptability of the principle of development.

22. In terms of the comments relating to the Council's 5 year housing land supply, the figure suggested by an objector that it is now 6.5 years is incorrect. The latest calculations show that the Borough's 5 year housing land supply currently stands at 4.23 years. In accordance with the guidance within the NPPF, the policies of the development plan which relate to housing are therefore out of date and the scheme must be considered in relation to the NPPF's definition of sustainable development. Such an approach was set out in the recent Planning appeal decision where the Inspector judged that the Council's policies for the supply of housing could not be considered up-to-date as a result of a lack of 5 year housing land supply. Furthermore, in accordance with paragraph 72 of the NPPF 'great weight' was also placed on the provision of the 'free school' and accordingly he and the Secretary of State both concluded that whilst there was harm to on the green wedge, the character and appearance of the area, and recreational opportunities, the policies within the National Planning Policy Framework (NPPF) carried such weight that they outweighed those of the development plan.
23. In terms of the principle of the wording to the conditions, the merits of each are considered below, with the exception conditions 14 and 15 which are assessed in the relevant material planning consideration. The proposed alteration to condition 6 (open space provision), would tie all open space requirements to the housing element of the scheme. Given that the school would provide associated playing fields as part of its proposal and typically open space requirements tend to be associated the resultant demand from new housing, it is not considered that this revision poses any significant concern.
24. In terms of condition 8 this seeks a minimum of a 10% of the schools energy requirement to be provided by renewable sources, the amendment seeks to insert the word school to ensure that the school could come forward ahead of any housing. Given there is already a degree of separation in the condition with condition 9 requiring any housing to produce a minimum of 10% of their energy requirement through renewable sources this is not considered to cause any significant area of concern. However, and for consistency it is also considered that if the word school is imposed into condition 8, the word housing should also be inserted into condition 9 to ensure clarity is maintained between the two conditions.
25. As alluded to earlier within the report the planning merits of the development have already been considered by the Secretary of State. It is considered that the amendments to the planning conditions do not pose any significant changes and consequently the principle of development is considered to remain acceptable.

Visual Impact;

26. To a large extent the visual harm of the proposed development is tied into the harm that would occur to the green wedge and character of the surrounding area. In the recent appeal decision both the Inspector and Secretary of State recognised that whilst the proposed development would cause harm to the character of the area, it was limited harm as the site had little landscape quality given that is flat and relatively featureless.

27. Furthermore, consideration was given to the proposed buffer planting, the Inspector felt that whilst such planting would take time to establish it would provide an edge and help to screen the extension of Ingleby Barwick, which would be an improvement to the treatment of the existing eastern boundary. The Inspector concluded that the degree of harm that the proposal would cause to the character of the area would therefore be limited, particularly as the Council has sought to address their housing supply shortfall by granting or expressing a willingness to grant planning permission for housing on other similar sites on the edge of settlements, often within strategic gaps or green wedges.
28. As the proposed amendments to the planning conditions do not affect the scale or nature of the development or the associated landscaping, any visual harm that would occur would be the same as has been previously considered to be 'limited' and acceptable by the Secretary of State in his recovery of the planning decision. As a result any visual harm the proposed development has, is again outweighed by the benefits of bringing forward both the housing to address the Authority's 5 year housing land shortfall and Free School and Sixth Form to increase choice in the state education system. The final details regarding the layout of the site, including the scale, siting and design of the school and housing would remain a matter to be considered at the reserved matter stage.

Setting of listed building;

29. Little Maltby Farm lies to the east of the application site and is a grade II listed building. At present the surrounding land is open and reflective of both the building and surrounding lands former agricultural nature. However, given the extent of the residential curtilage for Little Maltby Farm, a degree of openness across the listed buildings would remain and consequently there would be limited change in its immediate setting
30. Previously it was considered that with appropriate and sufficient landscaping, a degree of screening and an acceptable buffer could be achieved so that any development would not fundamentally affect the setting or context of the listed buildings, such a stance was also accepted at the appeal. Given that much of the impact of the proposed development, in respect of the setting of the listed building would only be known once detailed design work has been carried out, any impacts would need to be fully and carefully considered at the reserved matters stage. The proposed amendments to the planning conditions do not effect this situation nor will they result in any significant or increased impacts on the setting of the listed buildings, accordingly the development is considered not to be in conflict with saved Policy EN28 or with guidance within the NPPF in this respect.

Amenity;

31. The application is made in outline and therefore the final layout of the scheme is subject to amendment and change, with the final design and layout of the scheme to be agreed through a future reserved matters application. The indicative drawing provided enough satisfaction that the separation distances from the existing properties to the areas of the proposed dwellings could be met. Along with the potential for future landscaping of the site, it is considered that the proposed development would not have any significant impacts on the amenity of the neighbouring residents in terms of loss of daylight, appearing overbearing or a loss of privacy that would justify a refusal of the application on planning grounds at this stage. Similarly, in terms of the internal relationships the final site layout and positioning of the school buildings and proposed dwellings would also be considered as part of a future reserved matters application and be assessed at this time.

This approach was also reflected in the recent decision by the Planning Inspectorate and the Secretary of State.

32. In terms of the amendments to the wording of the previously imposed planning conditions, it is not considered that the revised wording would unduly affect the amenity of the neighbouring occupiers.
33. In terms of the short-medium environment impacts such as dust, noise and general disturbance during any associated construction activity could be minimised and controlled through planning conditions should the development be approved and any such impacts are not considered to be sufficient enough to warrant a refusal of the application.

Highway Safety;

34. The proposed means of access remains as previously proposed, which was considered to be acceptable by the Head of Technical Services, Planning Inspector and Secretary of State, provided appropriate highway mitigation was provided. The Heads of Terms detailed within this report reflect those agreed as part of the Public Inquiry and would secure financial contributions towards highway improvement works, the provision of a new pedestrian crossing point on Low Lane and improved footpath provision Ingleby Barwick. The scheme does not alter the quantum of development and would therefore not increase traffic associated with the development.
35. In terms of the variation to the wording of the conditions, one relates to the requirements of the Construction Method Statement (Condition 14). The proposed amendments would introduce a phased approach allowing construction to start for each element, provided that a Construction Method Statement for each individual element (school, housing and infrastructure) has first been submitted and approved for that element of the scheme, rather than the development as a whole (as the condition currently requires). The Head of Technical Services has considered this and has no objection to this amendment as the Construction Method Statement for each element of the site would still need to be agreed with the Highway Authority prior to construction commencing. The proposal is therefore not considered to pose any significant threat to highway safety, which would justify a refusal of the application.

Flood Risk;

36. The amendment sought to condition 15 (Surface Water Management) would require a scheme for the management of surface water to be agreed separately for each element of the site. Whilst the Head of Technical Services has no objections to this approach, comments are made that the schemes are likely to be mutually dependent and consequently for each element of the scheme consideration will be given to any previously approved measures. The amendment to the condition is therefore not considered to pose any significant threat to flooding.

Protected species;

37. During the course of the previous application species surveys were carried out and Natural England had no objections to the proposed development. A planning condition was imposed by the Secretary of State to require a timetable for the implementation of ecological mitigation measures to first be approved by the Local Planning Authority. This condition remains part of the recommended planning conditions and this revision to the planning conditions is not considered to pose any significant risk to protected species.

Others Matters/Residual Issues;

38. Whilst one objector considers that this application is 'totally different' to that which has been approved, the scale and nature of the proposed development will remain the same. Although the amendments to the wording would allow either the free school or the housing to come forward separately, the Secretary of State has considered the matter and saw no reason to link the two elements together.
39. Reference has also been made to the Planning Inspector and Secretary of State decision to grant permission and that they considered all the conditions imposed to be 'reasonable and necessary'. However, this reference is as a result of the five tests for planning conditions (as set out in Circular 11/95). This requires all planning conditions to be reasonable, necessary, enforceable, precise and relevant both to planning and to the development. The amendments sought to the planning conditions do not alter the requirement for the development to provide this information and the revised wording is considered to meet with the test for planning conditions. It is therefore considered that the development would be in line with minister previous decision.
40. Whilst comments relating to the devaluation of property are noted, these are not a material planning consideration and consequently cannot be taken into consideration as part of this planning application.
41. Matters relating to lease arrangements are a private matter for the land owner and the Education Funding Authority. It is not a material planning consideration. Any future developments of the land would need to be considered on their own merits and against the relevant development plan policies at that point in time.

CONCLUSION

42. Given the above considerations it is not considered that proposed amendments to the previously imposed planning conditions, would result in any significant changes to the scale or nature of the previously approved (on appeal) free school and housing scheme.
43. The proposed alterations to the planning conditions are considered to be acceptable and would not remove the need for the developer to submit the required information to ensure a satisfactory form of development would come forward. The amendments primarily seek to provide a degree of separation to allow for either the housing and free school to come forward ahead of the other.
44. Consequently the proposed development is considered to be in accordance with guidance within the NPPF and the Secretary of States earlier decision that any harm which would occur is outweighed by the benefits of the scheme. This application is therefore recommended for approval subject to the planning conditions and Heads of Terms set out in this report.

Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Simon Grundy Telephone No 01642 528550

WARD AND WARD COUNCILLORS

Ward Ingleby Barwick East
Ward Councillor Councillors Jean Kirby, K C Faulks and Gillian Corr

IMPLICATIONS

Financial Implications.

Section 143 of the Localism Act and planning obligations as set out in the report. The Council may also be liable for any costs in defending an appeal such the application be refused

Environmental Implications.

As report.

Community Safety Implications.

Section 17 of the Crime and Disorder Act 1998 has been taken into account in preparing this report and it is not considered the proposed development would not be in conflict with this legislation.

Human Rights Implications.

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report and the proposed development will not contravene these human rights.

Background Papers.

Regional Spatial Strategy

Stockton on Tees Core Strategy

Stockton on Tees Local Plan

Stockton on Tees Regeneration and Environment DPD (Preferred options)

National Planning Policy Framework (NPPF)

Planning Applications; S1626/74; S1629/75; S1389/88; 90/1965/P, 94/0385/P, 97/0884/P, 00/1063/P, 00/1064/P, 03/1976/P, 03/1977/P & 06/2593/OUT & 12/2517/OUT.