

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE  
10 SEPTEMBER 2014  
REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**14/1839/FUL**

**Hedgeside, Leven Bank Road, Yarm**

**Erection of fencing, walls, gates with pillar and retrospective application for brick pedestrian archway**

**Expiry Date 4 September 2014**

**SUMMARY**

This part-retrospective application seeks planning permission for the erection of fencing, walls, gates with a pillar and a brick pedestrian archway (retrospective) at Hedgeside.

The application site is a detached property known as Hedgeside, located off Leven Bank Road, Yarm. To the west of the site is open countryside. Mature hedgerows and tree planting enclose the site to the front (north) and along the boundary to the east, which consists of a closed boarded fence and a number of protected trees. A property known as Handley Cross is present to the east/south east of the site, which is also served by Leven Bank Road to the north.

Following the recent planning approvals at the application site, a detached garage has been erected to the north, in addition to a number of extensions and alterations to the main dwelling. The existing access has been partially closed off through infant planting (as required by conditions 03 and 09 of 11/1813/COU) although a brick archway has been erected within this section (which forms part of the current application and is proposed to serve for waste collection). The approved access that forms part of planning approval 11/1813/COU has been laid out informally and currently consists of a dirt track.

In reference to the proposed waste collection arrangements, the Head of Technical Services (HoTS) has commented that the Council's Care for Your Area department, who carry out the collection of refuse, have confirmed that the proposed pedestrian archway (which is to provide access for waste collection) will only be acceptable in conjunction with a refuse collection from the adjoining property Handley Cross.

Notwithstanding this, the Head of Technical Services does not support this proposal commenting that the potential inappropriate use of the proposed pedestrian access would intensify the vehicular use of a substandard access to the detriment of highway safety and the free flow of traffic.

However, it is considered that in this instance that there would not be detriment to highway safety and the free flow of traffic as the bin collection would only be carried out in conjunction with the bin collection from Handley Cross. A planning condition can restrict the access of the gate for waste collection only and for no pedestrian access to the site. This condition has been assessed to ensure it meets the six tests for validity which are necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. The

Council's Principal Solicitor is satisfied that all six tests are met and is recommended to be imposed accordingly.

The Council's Landscape Officer raises no objections to the scheme subject to necessary planning conditions and informative in respect of the soft landscaping scheme and tree protection measures, which are recommended accordingly.

11 objections have been received to date that are set out in full below. These objections include; the proposals are out of keeping with the surrounding area, detrimental the countryside setting; overdevelopment of the site and cumulative impact of the current proposals and previously approved developments at the site; impact on highway and pedestrian safety as a result of the proposed pedestrian access gate; no justification as to why the bin store cannot be provided from the new access; and the proposed 2m high fence could have an impact on the protected trees along this boundary.

3 support letters have been received commenting that the proposals would improve the appearance of the site and that Hedgeside has previously had waste collected alongside Handley Cross without any problems.

Subject to the imposition of the identified relevant planning conditions, the scheme as proposed is not considered to result in a significant adverse loss of highway and pedestrian safety, or have a significant adverse impact on the character and appearance of the area or lead to an unacceptable loss of amenity for neighbouring land users.

The application is recommended for approval accordingly.

## **RECOMMENDATION**

**That planning application 14/1839/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);***

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>S082 (PL) G100 REV E</i>	<i>6 August 2014</i>
<i>S082 PL W100 REV A</i>	<i>6 August 2014</i>
<i>S082 W102 REV B</i>	<i>6 August 2014</i>
<i>S082 W103</i>	<i>10 July 2014</i>
<i>S082 W101</i>	<i>10 July 2014</i>
<i>S082 W 001</i>	<i>8 July 2014</i>

***Reason: To define the consent.***

## **Conditions to be Implemented**

**02.     *Soft landscaping and management plan***

***The agreed soft landscaping scheme, including soft landscape management plan, shall be implemented in accordance with approved plan (and specification scheme) S082 (PL) G100 REV E (date received 6th August 2014). Notwithstanding the timescales implicated on the submitted plans, the agreed scheme shall be carried out as approved and completed by 1<sup>st</sup> April 2015 to the satisfaction of the Local Planning Authority unless an alternative timetable for implementation is agreed in writing with the Local Planning***

**Authority. Any gaps to the south of the brick archway, between the arch and the proposed retaining wall should be filled with the same hawthorn hedging mix as stipulated on the approved landscaping scheme.**

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

**Reason: To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and to accord with Policy CS3.**

**03. Finishing materials**

**Notwithstanding the submitted information, the materials used in the construction of the proposed fencing, retaining wall, proposed pedestrian access gate (to be installed within the erected brick archway), the proposed timber access gates (and adjacent brick pillars) and proposed 0.75m high low brick wall hereby approved, shall match those of the existing main dwelling and existing boundary treatment unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to allow the Local Planning Authority adequate control over the appearance of the development in accordance with Core Strategy Policy CS3.**

**04. Hand dug methods**

**Notwithstanding the submitted information and in respect of the proposed 2m high closed boarded fence to be erected along the eastern boundary, the post holes for the fencing should be constructed using hand dug methods only, unless otherwise agreed in writing with the Local Planning Authority.**

**Reason; In the interests of protecting trees adjacent to the site that are considered to be of a high amenity value.**

**05. Blocking up of existing access to Hedgeside (only)**

**Notwithstanding the submitted information, the existing vehicular access shall be closed off to prevent vehicular access into the property of Hedgeside (only) through the addition of new hedgerow planting as indicated on approved plan S082 (PL) G100 REV E (date received 6th August 2014) and detailed as part of Planning Condition 02 (which stipulates the timescale for implementation), unless otherwise agreed in writing with the Local Planning Authority.**

**Reason: In the interests of highway safety.**

**Conditions which will remain in perpetuity**

**06. The proposed access gate situated between the erected brick archway hereby approved shall be solely used for access to the waste storage area as set out on plans S082 (PL) G100 REV E, S082 PL W100 REV A, S082 W 102 REV B (all date received 6th August 2014) and shall only be opened and accessed for the removal of waste on waste collection days. The proposed access gate (including the brick archway) shall remain closed and**

**locked at all other times and shall not be used for any deliveries to the dwelling house or be accessed by occupants of the domestic property.**

**Reason; In the interests of highway safety.**

**07. The development hereby approved solely relates to the position, size and materials of the fencing, walls, access gates with brick pillars and erection of a brick pedestrian archway with access gate and for no other purpose.**

**Reason; For the avoidance of doubt and that the development hereby approved does not approve any other details indicated on the submitted plans.**

#### **Informative 1: National Planning Policy Framework**

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

#### **Informative 2; Prohibited works to protected trees**

The applicant should be aware of the Tree Preservation Order that relates to a number of trees along the eastern boundary and in respect of the proposed 2m high fence and 0.75m high retaining wall.

The following works are not allowed under any circumstances:

- o No equipment, signage, structures, barriers, materials, components, vehicles or machinery shall be attached to or supported by a retained tree;
- o No fires shall be lit or allowed to burn within 10 metres of the canopy spread of a tree of within the Root Protection Zone;
- o No materials shall be stored or machinery or vehicles parked within the Root Protection Zone;
- o No mixing of cement or use of other materials or substances shall take place within the Root Protection Zone or within such proximity where seepage or displacement of those materials or substances could cause them to enter the Root Protection Zone;
- o No unauthorised trenches shall be dug within the Root Protection Zone.

#### **Informative 3; Hand dug methods only**

The post holes should be hand dug carefully and if any roots greater than 25mm or numerous smaller fibrous roots are encountered the hole should be back filled with the existing soil and a new position for the post holes located where few roots or no roots are found.

#### **Informative 4; Waste collection**

The Head of Technical Services (in conjunction with Care For Your Area) advises the applicant that waste collection from Hedgeside will only be acceptable in conjunction with a refuse collection from the adjoining property Handley Cross. The owner of the adjoining property, Handley Cross, has agreed with Care for Your Area that his refuse will only be collected on days when he has opened the gated access to the property. Therefore should the arrangements be changed, to comply with those requested by the applicant, the collection of refuse from both properties will only be undertaken when Care for Your Area can collect the refuse from the adjoining property under the current arrangements with the owner of Handley Cross. Refuse will not be collected from the application property in isolation and the applicant would need to make alternative arrangements on the occasions that this occurs should the proposed arrangements be implemented.

## **BACKGROUND**

1. **02/1719/P**: Planning permission was granted on 24 October 2002 for the erection of a conservatory and double garage to the side with first floor extension above the garage.
2. **07/3168/FUL**: Planning permission was granted for extensions and alterations to the existing dwelling house on 08 January 2008.
3. **10/1861/FUL**: A further planning permission was granted for a further extension to the rear on 29.10.2010.
4. **11/1813/COU**; Application for change of use of land to private garden, formation of new vehicular access and associated entrance gates, erection of detached domestic garage and low wall to front of dwellinghouse, approved 16th December 2011.

The application was approved subject to a number of planning conditions including conditions;

Condition 03 (landscaping); this required the existing access to be blocked off with hedge planting in addition to other screen tree planting and soft landscaping

Condition 07 (removal of permitted development rights within extended residential curtilage)

Condition 08 (visibility splay); this required the provision of 120m visibility splays at the new site access

Condition 09 (blocking up of existing access to Hedgeside); in accordance with Condition 03, this required the blocking up of the existing access prior to the formalisation of the approved new access, in the interest of highway safety.

5. **13/1910/APC**; Information to discharge condition no. 3 (Additional Landscaping), 4 (Soft Landscape Management Plan), 5 (Hard Landscaping) and 6 (Finishing Materials) and 8 No. (visibility splay) of planning approval 11/1813/COU. The relevant conditions were discharged 12th September 2013, including condition 03 (soft landscaping) and condition 08 (details of visibility splay) subject to the implementation of the agreed details.
6. **12/2695/FUL**; Proposed porch and first floor extension to front, approved 18th February 2013.
7. **12/2754/FUL**; Proposed detached garage, refused 15th January 2013. The subsequent appeal was dismissed by the Planning Inspectorate (APP/H0738/D/13/2194048, decision dated 9th May 2013). The applicant subsequently implemented an approved, detached garage as part of approval 11/1813/COU.

## **SITE AND SURROUNDINGS**

8. The application site is a detached property known as Hedgeside, located off Leven Bank Road, Yarm. To the west of the site is open countryside. Mature hedgerows and tree planting enclose the site to the front (north) and along the boundary to the east, which consists of a closed boarded fence and a number of protected trees. A property known as Handley Cross is present to the east/south east of the site, which is also served by Leven Bank Road to the north.
9. Following the recent approvals at the application site, a detached garage has been erected to the north, in addition to a number of extensions and alterations to the main dwelling. The existing access has been partially closed off through infant planting (as required by conditions 03 and 09 of 11/1813/COU) although a brick archway has been erected within this section (which forms part of the current application). The approved access that forms

part of approval 11/1813/COU has been laid out informally and currently consists of a dirt track.

## **PROPOSAL**

10. This part-retrospective application seeks planning permission for the erection of fencing, walls, gates with a pillar and a brick pedestrian archway (retrospective) at Hedgeside.
11. The fencing consists of an approximately 1m high 'stock proof' timber post and rail fence that extends along the northern boundary of the application site adjacent to Leven Bank Road and the approved landscaping scheme.
12. A proposed 2m high close boarded fence is to be erected along the boundary to the east for a length of approximately 80m, tying into the erected brick archway and proposed access gate to the north. The applicant had signed 'Certificate A' indicating that all of the fence will be situated on the applicant's land ownership and has commented within the supporting statement that this would be '*clearly on the land belonging to Hedgeside*'.
13. A 'retaining' wall, measuring approximately 0.75m in height x 20m in length (cumulatively) x 1.5m in depth would be erected along the north eastern boundary. The submitted supporting statement indicates that this is required owing to a change in topography, adjacent to the driveway/garage and to prevent soil running into the driveway/gravel.
14. The stock proof fencing has already been erected. This along with the proposed 2m high fencing and retaining wall only requires planning permission by virtue of a restrictive condition on approval 11/1813/COU that removes all permitted development rights for such structures.
15. The proposed access gates would be situated on the proposed/approved access into the site, situated approximately 20m from the entrance to the site from Leven Bank Road. The proposed gates would consist of 2 brick pillars with inward opening hardwood gates, max. height 1.95m (approx.). This would replace a previously approved set of access gates that were approved as part of 11/1813/COU. An approximately 0.75m high brick wall would follow the access track beyond the access gates, leading into the site.
16. The erected brick archway measures approximately 2.1m in height x 1.8m in width (0.44m in depth) and has been erected within the original access to the site, that was required to be blocked up with planting as part of conditions 03 and 09 of approval 11/1813/COU to prevent vehicular access. The submitted plans indicate that a pedestrian access gate is to be positioned within the archway. The applicant has confirmed that this is required "*to allow a refuse bin to be placed on the public highway for collection by the Council*".
17. The original submitted scheme also sought planning permission for the erection of a large, detached brick built 'log store' however this has subsequently been omitted from the submitted plans.
18. The submitted plans also do not show the requisite 120m visibility splays required by condition 09 of approval 11/1813/COU and as formally agreed and discharged as part of application 13/1910/APC and as detailed on plan S082(PL)G100 (date received 12 September 2013).

## **CONSULTATIONS**

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

## **Head of Technical Services**

### Highways Comments

The current application is for the erection of fencing, walls, gates with pillar and retrospective application for brick pedestrian archway.

The applicant has indicated that the proposed brick pedestrian access would be used to enable refuse collection from the property. This would be carried out in conjunction with refuse collection from the adjoining property Handley Cross and is a variation on the existing arrangements.

The existing arrangements, for the collection of refuse, from the application property require the refuse wagon to enter the property via the new access, approved under application 11/1813/COU), and then turn within the site and exit via the new access and re-join the main carriageway in a forward gear.

Care for Your Area, who carry out the collection of refuse, have been consulted on this proposed arrangement and have confirmed that it will only be acceptable in conjunction with a refuse collection from the adjoining property Handley Cross. The owner of the adjoining property, Handley Cross, has agreed with Care for Your Area that his refuse will only be collected on days when he has opened the gated access to the property. Therefore should the arrangements be changed, to comply with those requested by the applicant, the collection of refuse from both properties will only be undertaken when Care for Your Area can collect the refuse from the adjoining property under the current arrangements with the owner of Handley Cross . Refuse will not be collected from the application property in isolation and the applicant would need to make alternative arrangements on the occasions that this occurs should the proposed arrangements be implemented.

The current arrangements for refuse collection were brought into effect following the approval of a previous application (11/1813/COU) which included the formation of a new access to applicant's property Hedgeside. This permission was conditional upon the closure of the existing access thereby reducing the use of a substandard access shared with the adjacent property Handley Cross. Allowing the formation of the proposed brick pedestrian access at this location, to facilitate refuse collection, would also encourage drivers to pull into the access to load/unload i.e. taxis/deliveries. This would be contrary to the intention of condition no.9 of 11/1813/COU and whilst the highway safety risk presented by the collection of refuse can be mitigated, by implementing the arrangements detailed above which would not allow for the collection of refuse in isolation from the application property Hedgeside, the potential for the inappropriate use of the proposed brick pedestrian access cannot be mitigated and may therefore result in an intensification of use of a substandard access contrary to highway safety.

While the current application site (within the red line boundary) does not include the visibility splays it should be noted that the 2m x 90m splays that have been shown on the submitted plans are incorrect and contrary to condition no.8 of 11/1813/COU which specified 120m. In the 3 years to April 2014 there have been 4 recorded injury accidents within 150m of the application property Hedgeside, 2 of which were serious. The required visibility splays were considered as part of 11/1813/COU when road speeds and accidents were taken into account and it was concluded that 120m was the appropriate visibility splay for this road. Should this permission be granted and include approved plans showing visibility splays of less than 2m x120m it should be made clear in the decision notice that this does not constitute permission for reduced visibility splays.

The Head of Technical Services does not support this proposal as the potential inappropriate use of the proposed pedestrian access would intensify the vehicular use of a substandard access to the detriment of highway safety and the free flow of traffic.

### Landscape & Visual Comments

Subject to the following comments there are no landscape and visual objections to the development, views of which would be softened by the proposed tree and hedge planting;

It is noted that the revised landscape plan ref. dwg no. S082 (PL) G100 rev D shows that the proposed hawthorn mix hedge has been continued up to the brick arch as requested in the previous memo. This is acceptable in landscape terms. Any gaps to the south of this brick arch between the arch and the proposed 750mm high brick wall should be filled with same hawthorn hedging mix.

The proposed fence down the eastern side of the property is acceptable but post holes must be carefully excavated to protect the roots of the existing mature trees. Information relating to this is provided in the informative section at the end of this memo.

Informative

### **FENCING WORKS**

The following works are not allowed under any circumstances:

- No equipment, signage, structures, barriers, materials, components, vehicles or machinery shall be attached to or supported by a retained tree;
- No fires shall be lit or allowed to burn within 10 metres of the canopy spread of a tree of within the Root Protection Zone;
- No materials shall be stored or machinery or vehicles parked within the Root Protection Zone;
- No mixing of cement or use of other materials or substances shall take place within the Root Protection Zone or within such proximity where seepage or displacement of those materials or substances could cause them to enter the Root Protection Zone;
- No unauthorised trenches shall be dug within the Root Protection Zone.

The post holes should be hand dug carefully and if any roots greater than 25mm or numerous smaller fibrous roots are encountered the hole should be back filled with the existing soil and a new position for the post holes located where few roots or no roots are found.

### **PUBLICITY**

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

England and Lyle On Behalf Of Mr Bates  
Gateway House 55 Coniscliffe Road

We are writing on behalf of Mr Bates, to formally object to a full planning application for the erection of fencing, walls, gates with pillar, detached log store building and retrospective application for a brick pedestrian archway at Hedgeside, Leven Bank, Yarm LPA Ref No. 14/1839/FUL. This objection relates to the adverse impact the proposed log store, unlawful archway and close boarded fence will have on the surrounding area. Before setting out our objections, I thought it may be helpful to briefly set out the context of the site and Planning Policy position.

Site Context



The applicant's dwelling known as Hedgeside has been extensively modified and extended in recent years and is located to the east of the village of Yarm outside of the settlement boundary. The site is surrounded by a number of agricultural fields and is bound on the northern and eastern edge by mature hedgerows and tree planting. The main highway access to the site is taken from Leven Bank Road A1044 towards the eastern edge of the site. This access is a shared access with my client's property of Handley Cross to the east of the application site.

#### Policy Context

In this instance the Development Plan comprises the Saved Policies of the Stockton-on-Tees Local Plan 1997 and the Core Strategy 2010. Local Plan Policy EN13 Limits to Development seeks to restrict development outside the limits to development where it would harm the character or appearance of the countryside. Additionally, Core Strategy Policy CS3 requires proposals to 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.

In addition to the Development Plan, consideration must be given to the National Planning Policy

Framework, which was published on 27th March 2012 and sets out the Government's planning policies for England and how these are expected to be applied.

Another material consideration relevant to this application is the Council's Sustainable Design Guide SPD which was adopted in 2011 and encourages the delivery of well-designed and sustainable developments within the Borough.

Further to this, the Council's Householder Extension Design Guide SPG2 is also a material consideration in this instance which provides advice and guidance on appropriately designed extensions. In regard to outbuildings, the SPG states;

"The size and design of the outbuilding must remain in proportion with the house, including the roof, which if left unchecked can significantly increase the perceived mass of the structure.

Outbuildings and garages will not normally be permitted in front of the house in order to protect the building line and street scene".

#### Objections to the Application

Our client has concerns as to the cumulative impact of the proposed developments at this site alongside those already approved. The proposals increase the amount of development at this site, and would result in a visually prominent form of development when viewed from the road. Both the form and scale of the development in this location are of detriment to the character of the countryside, and therefore should be resisted in accordance with the Local Plan and the Core Strategy. Our client also has concerns in regard to specific elements of the application, namely:

Purpose of log store and impact on the surrounding area;

Purpose of Pedestrian Archway and impact on the surrounding area;

Impact of the close boarded fence on trees

Purpose of log store and impact on the surrounding area

It is understood that the main property will be heated by a biomass boiler and therefore the applicant requires an ancillary free standing log store.

Paragraph 4.6 of the Sustainable Design Guide SPD 2011 sets out the design criteria that all new developments must achieve. The criteria includes "The scale, massing and height of the any proposed development should be considered in context with its surroundings".

The log store would measure approximately 4.6m in length and 4.6m in width, as well as 4.6m to the ridge.

This is a substantial additional building at this site, and would be clearly visible from the highway and whilst we acknowledge that the garage already has consent, the combined impact of the log store also would lead to an increase in the built form at this site and eroding the character of the countryside. We would encourage the Case Officer to visit the site prior to determining the application to fully appreciate the detrimental visual impact of the proposals when viewed from the main road.

The applicant has provided no evidence as to the requirement for a building of this scale for this purpose and therefore fails to justify allowing such a substantial building in the countryside. This new building in the countryside is not justified in planning policy terms and does not follow the guidance set out by the Council's SPD, Local Plan Policy or the NPPF in terms of development in the countryside.

#### Purpose of Pedestrian Archway and impact on the surrounding area

The current proposals seek retrospective consent for the pedestrian archway at Hedgeside which was erected unlawfully in April this year. This application follows enforcement action taken by the Council following the erection of this archway. As you will be aware, an application for a change of use of land to private garden, formation of new vehicular access and associated other works (LPA Ref No. 11/1813/COU) was approved with conditions by the Council on the 16th December 2011. The additional access was to serve the site on the western edge leading off from Leven Bank Road and Condition 9 of the planning consent required the existing vehicle access to be closed off with new hedge planting as it was considered that two vehicle accesses to the site would be detrimental to highway safety. A discharge of conditions application was submitted to and approved by the Council on the 12th September 2013 (LPA Ref No. 13/1910/APC) where it was agreed that the shared access would be closed off with new hedge planting. However rather than doing the works as agreed through the discharge of the conditions, a large archway has been erected for which planning consent is now being sought to retain the structure for pedestrian purposes and "to allow a refuse bin to be placed on the public highway for collection by the Council".

There are also safety concerns in relation to the refuse vehicle collecting from this access. It should be noted that at present, our client allows the truck to enter and turn in his site rather than stopping in the road. Justification as to why the applicant cannot provide this provision within his new access is requested, as the proposals in their current form will lead to the refuse truck being stationary on the road, thus being unsafe and causing inconvenience for other road users. This will also block the access to our client's site, causing further inconvenience. Additionally, our client considers the archway to be clearly out of keeping in this countryside location and would be better suited in a more domestic/suburban setting. Given the above, our client strongly requests the removal of the archway and the installation of the hedge planting agreed as part of the previous consent.

#### Impact of close boarded fence on trees

A fence currently runs alongside much of the boundary between Hedgeside and the adjacent residential property of Handley Cross. These proposals seek to erect a 2m high close boarded fence along the boundary on the basis that the existing fence is in 'poor condition' and the replacement fence will provide a more pleasing outlook. Our client thoroughly disputes this is the case as the existing fence is regularly maintained and not in 'poor condition'. Our client would also request more information as to the location of the proposed fence in relation his fence, as they have concerns as to the ability to maintain the fence in the future.

Moreover, as acknowledged by the applicant's agent, the trees which bound the site on the eastern edge are the subject of a TPO. Given that the works will be within close proximity to these trees, we are of the opinion that further investigation as to the impact of the proposals on the trees should be provided as part of this application, in accordance with the guidance set out in the NPPG in regard to developments affecting TPOs.

#### Conclusions

This letter forms an objection to the proposed works at Hedgeside, Leven Bank, Yarm. Our client considers that the cumulative impact of the proposals will have a detrimental impact on the character and appearance of the countryside and surrounding area.

Furthermore, the scale of the proposed new building in the countryside has not been justified in the context of local and national planning policy. The proposal in this location would have a significant detrimental impact on the character and appearance of the surrounding area. In addition, the applicant has failed to comply with the condition attached to the previous consent which restricts access to the west of the site from Leven Bank and has instead built a pedestrian archway which is of a substantial size and inappropriate in appearance at this location. Finally our client raises concerns over the impact of the proposed close boarded fence on the protected trees towards the eastern edge.

It is therefore considered that this application as a whole is unjustified and fails to demonstrate that any accordance with local and national policy. On that basis planning permission should be refused.

#### Further objection

Further to our brief conversation yesterday, I write in regard to the revised plans for this scheme, to reinstate our objections to these proposals.

Whilst we appreciate the removal of the log store from the proposals, our client does not consider the amendments to have gone far enough to overcome the concerns in regard to these proposals and the applicant has not provided any additional information to support the scheme.

Particular concerns remain in regard to the pedestrian access to the north-east of the site, and the use of this access for refuse collection. I have again set out below our clients' main concerns in relation to this.

There are safety concerns in relation to the refuse vehicle collecting from this access. The proposals in their current form will lead to the refuse truck being stationary on the road, thus being unsafe and causing inconvenience for other road users. This will also block the access to our client's site, causing further inconvenience. Justification as to why the applicant cannot provide the provision for refuse vehicles within his new access is still not provided.

If a pedestrian access is required, then our client considers that it should be alongside the new (main) gates as it is most unlikely that anyone would approach the property on foot, they would be dropped off by taxi or other vehicle, thereby blocking my client's entrance and causing a hazard when turning out to re-join the traffic. However, if the pedestrian gate were located alongside Hedgeside's gates, there could be ample room for a vehicle to turn around safely and re-join the main traffic.

Our client remains of the view that the archway is clearly out of keeping in this countryside location and would be better suited in a more domestic/suburban setting. It is still not appropriate in the proposed location.

Given the above, our client maintains his objection to these proposals as set out in his initial letter, and strongly requests that this application be refused.

Mr W Bates

Handley Cross Leven Bank Road

I wish to further object to the above application on the following grounds:-

The original application for the new entrance (11/1813/COU) was based on road safety and in particular the hazards associated with using the original driveway to exit or join traffic on Leven Bank Road (A1044). The application was granted subject to a condition that the original entrance be closed off with hedging. This developer is now wanting to re-use the old entrance to facilitate the collection of his refuse bin which will require the council refuse collection vehicle pulling in to my entrance, thereby blocking my driveway.

Furthermore, the rear of the vehicle will protrude into the main carriageway and cause an obstruction to the traffic coming over the brow of the hill at Leven Bank.

This is at odds with comments made in the press by the developer (Darlington & Stockton Times 27th June 2014) when commenting on the approved neighbouring retirement village at Mount Leven, is quoted as saying "he had spoken to a road safety expert and was concerned about visibility in the run up to the new roundabout as well as traffic jams outside his (new) driveway restricting access to his home". The article went on that he had also emailed Stockton Council saying "he could foresee accidents".

Obviously then, a large refuse collection vehicle protruding into the carriageway outside his home will dramatically increase the risk of accidents! It would also present a safety hazard to the driver of the collection vehicle.

To further illustrate this point, on the 25th July 2014, the developer's contractor severed the medium pressure gas main supplying both our properties whilst excavating a service trench at Hedgeside.

The Northern Gas Emergency Response Vehicle despatched to the scene (which was approximately the same size as the council refuse collection vehicle) had to pull in across my entrance to effect an emergency shut-off and repair in order to prevent a major incident.

In doing so, the rear end of the vehicle protruded into the main carriageway and caused an immediate build-up of traffic on the A1044 Leven Bank Road. My wife who was returning home was also caught up in this traffic jam. Also, during the construction work on this site, the developer has been cavalierly irresponsible with regard to planning conditions and basic site discipline and safety and this application should be refused.

Further objection;

Thank you for your letter of 8th August '14 advising me that the above application has been amended and I have a further chance to comment. I note that the log store has been omitted.

However, the unlawful brick archway is still included.

My further OBJECTION is that by having a second entrance (albeit pedestrian) in the proposed location and immediately in front of mine, it will encourage delivery people, couriers, post, meter readers etc., to use this second entrance to park their vehicle across the front of my drive, whilst making their visit to Hedgeside, thereby causing an obstruction and a traffic hazard.

Furthermore, the original planning application 11/1813/COU APPROVED PLAN, SHOWS Hedgeside's original entrance being closed off completely with hedging. This was reinforced by a condition within the approval.

Since this application also sought a change of use for an adjoining area of farmland to a garden, in order to facilitate the new access, there is ample room to accommodate a pedestrian entrance alongside Hedgeside's new gated access, which is the obvious and sensible location.

It is simply inappropriate in the proposed location and should be demolished as it is also an unlawful structure. This application should be refused.

Wendy Bates

Handley Cross Leven Bank Road

Objection to -A free standing log store for bio mass boiler.

I Wendy Bates object to the construction of this double garage described for planning purposes as a log store.

It is obvious to the local community and numerous planning professionals that this building in time will become the garage to the existing structure, again described as a garage, to obtain the necessary planning approval under the guise of a change of use. These two buildings will then become an additional residence.

The size of the log store means it can clearly been seen from the road and the promise of softened screening with new planting will not materialise as other similar promises to obtain planning approval have not been forthcoming .

Since the trench for services to the so called log store have already been dug and pipes put into the trench the applicant has already assumed planning approval. Or perhaps he is adopting the same method as with his archway and gone ahead with the construction, without the need for time consuming planning that the rest of the community have to adhere to. Since the Planning Authority is powerless to enforce the conditions on previous planning approvals, or to contain this creeping development, I strongly object.

A brick archway for a pedestrian gateway to frontage

I am not convinced that a property developer and his advisor, Steve Barker of Prism Planning, an experienced planning professional, did not realise that planning was required for such a construction. Or did the applicant believe planning regulations do not apply to his projects?

I object to this unlawful construction because the planning regulations have not been followed.

Also the archway's purpose is to collect the rubbish bin. It would be extremely dangerous for a refuse vehicle to pull into the access with Handley Cross. It would also be dangerous for the vehicle to reverse out on to Leven Bank Road after the collection.

I also object to this construction on grounds of public safety.

Mrs Wasima Ahmed

3 Oughton Close Yarm

Distraction to road users and will look unsightly

Miss Michaela Reaney

32 Forest Lane Kirklevington

I object to the further development of the site due to over development of the land. The property is already far too large for the plot and is very visible from the road. The pedestrian archway is a hazard and not a safe spot for the refuse vehicle to stop in (not to mention does not have planning approval in place) and the log store will be very visible from the road which further adds to the unsightly site which has been under construction for many years. It is a great shame to see such overdevelopment in the area.

Ms Deniece Chapman Brown  
6 Claydon Grove Ingleby Barwick

I strongly object to this application. - it is a complete eyesore as the site in my opinion already looks overdeveloped. This could have a devaluation impact on surrounding properties.

Mr Rehman Khalid  
3 Thirsk Road Yarm  
Ruins my town

Mrs Salma Retallick  
10 the Green Seamer  
Not in keeping with the area

Margaret Smith  
5 St David's Close Billingham

I wish to register my OBJECTION to the above application by Mr T Howson of Hedgeside. This application is yet another example of the growing size of this development which is already an eyesore along Leven Bank Road, made worse by the removal of an attractive hedge which has been butchered in order to provide a new driveway for the property. Not content with that, I note that he now wants to have another access onto the road so he can leave his wheelie bin outside.

What was once an attractive bungalow has now been turned into a monstrosity and in this application the developer wants to construct even more buildings which will be even more visible from the road.

This construction work has been going on for nearly five years and there is sign of it ever being finished. The site is a mess and an eyesore and further buildings will only add to this, making a bad situation worse. Why has this development been allowed to get to this point as any other individual would not have been granted permission?

Elder Lester McGregor on behalf of Mr Javed Majid  
Elder Lester McGregor Reed's Mill

On behalf of my client Mr Javed Majid I am instructed to object to the above planning application for the following reasons:

- 1) The 750mm high brick walls to each side of the driveway will make it difficult to for vehicles to pass in a safe manner. Although a limited passing place is indicated there are no dimensions indicated on the drawing.
- 2) One of the proposed uses for the pedestrian gate is for the collection of refuse. My client is of the opinion that this is not a safe stopping place for a refuse vehicle.
- 3) The visibility splay towards Yarm as constructed on site appears to be less than 120 metres. From the topographical survey prepared for the Mount Leven Retirement Village entrance design it may not be possible to achieve this within the applicant's land.

Miss Toni Louise Curry  
6 Claydon Grove Ingleby Barwick

I strongly object to application for planning permission. The log store is clearly visible from the road which is not only a complete eyesore but because of its size may detract drivers attention away from the road. I also feel that there would be a danger to both refuse collectors and the general public during any attempt to collect refuse from that site.

Mrs Christine Mundy

28 Crosswell Park Ingleby Barwick

I wish to declare some support for this application no.14/1839/FUL for a ranch style fence at Hedgeside on Leven Bank. I do so having recently attended a consultation event for a Leisure complex proposed by the property owner of Hedgeside and where I was made aware of this application. I pass this property regularly and would agree that initially it was a bit of a shock that the original hedgerow had been removed, however it was soon apparent that this was to accommodate a new entrance or more accurately a relocation of the old access to the property. Since that entrance was created it appears to me that the applicant to their credit has made great effort to redress the balance of having to remove the hedgerow at the front of the property by installing a similar ranch style fencing to the right of the new entrance and then planting young trees the full length of the fence. In fact from what I have observed there seems to be a great deal of tree planting taking place within the frontage of the property which is obviously intended to screen the dwelling and other buildings from the road once they reach a certain level of maturity. A further plus point being that some of the trees are already of substantial growth. I appreciate that any future potential leisure complex at this location rests upon it gaining approval but with this prospect a possibility it makes this application for the fencing very relevant as I would have thought it important to ensure that the frontage of this site is constructed to a good standard with adequate screening sooner rather than later. Given some in opposition to the application are of the opinion that the site is an eyesore then I would have thought surely the fencing and other proposals would do exactly what is being objected to in tidying the site up? I can think of far worse so called eyesores than this site, which does at least appear to be progressing not least with what appears to be expensive tree planting. A fact which it would seem some are short-sightedly overlooking. It's also worth pointing out, unlike other recently approved planning applications for large scale housing developments within Yarm there is no other resident of property who will be affected by looking directly onto this site, therefore its visual impact is only seen momentarily by the passing motorist. In the interests of redefining the boundary line to this property by matching up the fence with that on the other side of the new entrance I hope that the application is looked upon favourably with an approval for the landscaping to further improve and restore the sites visual aspect along the A1044/Leven Bank road.

Mrs Olivia Vasey-Raine  
49 Royal George Drive Eaglescliffe

My name is Olivia Vasey-Raine. I am the previous occupant to Mr and Mrs Howson of Hedgeside, Leven Bank. I lived at Hedgeside for four year and prior to myself Mr and Mrs Roy lived there for 15 years. In the 19 year period the procedure for the collection of the refuse was to put it at the entrance of Hedgeside for collection. The council refuse vehicle was small mini wagon. The refuse collection workers would press the intercom button at Mr Bates and the gates opened and the vehicle collected Mr Bates refuse and drove back out. The gates would then close and then the driver would stop to collect Hedgeside's refuse.

At no time did this vehicle encroach onto the public highway as a small refuse vehicle was used every time.

Mr and Mrs Bates are fully aware of the procedure as previously stated which is why I find quite extraordinary that they are making these outrageous statements towards Mr and Mrs Howson. I can only put this down to pure vindictiveness. I am quite happy and I am sure Mr Roy would be to attend a planning committee and answer any questions they may wish to ask.

Mr Shane Sellers  
2 Egglecliffe Court Egglecliffe

I have viewed the plans in respect of this planning application and its associated documents and I am in full support of the proposals. Having passed this location on many

occasions it is clear that this applicant is intent on enhancing the area around the development site for the better and not the worse. Whilst the newly installed fencing is quite visible due to the new wood having been used to erect it, I am satisfied that over time this wood will lose its current colour and will blend in with the surrounding area as with similar fences locally. I also note that the applicant has planted a significant number of trees and bushes in front of the fence which, when fully matured, will block its view.

I am surprised at some of the objection comments that have been submitted in respect of this application, in particular the comments Ruins my town and a comment of Not in keeping with the area, from an objector who does not appear to live in the area. Neither of these two objectors appear to give any explanation as to why it would Ruin my town and is Not in keeping with the area, which I would have expected, particularly if they were so against this application. It is difficult to argue that the fencing is not in keeping with the area when there is other wooden fencing of a similar nature nearby.

It is my understanding that in order for comments, supportive or otherwise, to be properly considered by SBC Planning Department they must relate to planning considerations, such as highway safety, to be effective. It is my personal view that neither of these two comments relate to such considerations and should, therefore, be discounted.

This fence and its newly planted vegetation is set back from the road and will not, in my view, create a hazard for traffic. It would be no different if there was hedging still at this location, which would be closer to the roadside and would need constant management to avoid it encroaching onto the road itself.

I reiterate my support for this application.

## **PLANNING POLICY**

21. 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
22. 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
23. The following planning policies are considered to be relevant to the consideration of this application:-

### **National Planning Policy Framework**

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

For decision-taking this means:

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



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

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

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

- \_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
- \_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;
- \_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;
- \_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

### 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.

### Saved Policy EN13 of the adopted Stockton on Tees Local Plan

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
- (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or

In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:

- (iii) It contributes to the diversification of the rural economy; or
- (iv) It is for sport or recreation; or
- (v) It is a small scale facility for tourism.

### Saved Policy HO12 of the adopted Stockton on Tees Local Plan

Where planning permission is required, all extensions to dwellings should be in keeping with the property and the street scene in terms of style, proportion and materials and should avoid significant loss of privacy and amenity for the residents of neighbouring properties.

## **MATERIAL PLANNING CONSIDERATIONS**

24. The property to which this application relates is located outside of the defined limits of development, within the open countryside where national and local planning policy is aimed at restraining development to that which is necessary. As such needs to be considered against national and local policy, design, scale and layout and impact on adjoining properties and access/highway safety.
25. As set out in full above, 11 objections have been received to date. These can be summarised as follows;
- The proposals are out of keeping with the surrounding area, detrimental the countryside setting
  - Overdevelopment of the site and cumulative impact of the current proposals and previously approved developments at the site
  - The construction works have been carried out over a prolonged period
  - Impact on highway and pedestrian safety as a result of the proposed pedestrian access gate, which would attract visitors and other deliveries
  - The access would result in the driveway to Handley Cross being blocked during refuse collection and collection vehicles would overhang the carriageway. This would result in refuse vehicles obstructing the highway, to the detriment of highway safety
  - There is no justification as to why the bin store cannot be provided from the new access
  - The visibility splay shown on the submitted plans is not the correct 120m visibility splay, approved and required as part of approval 11/1813/COU
  - The previously proposed log store (which has been omitted from the scheme) would be an eyesore and distract drivers.
  - Elements of the scheme are retrospective
  - The proposed 2m high fence will prevent access to maintenance to the adjacent fence for occupiers of Handley Cross
  - The 2m high fence could have an impact on the protected trees along this boundary
  - Impact on existing hedgerow
26. 3 support letters have been received commenting that the proposals would improve the appearance of the site and that Hedgeside has previously had waste collected alongside Handley Cross without any risk to highway safety/vehicles encroaching onto the highway.

### **Principle of development**

27. The proposed and erected works fall within the approved extended residential curtilage of Hedgeside, as part of approval 11/1813/COU. Notwithstanding consideration for the design, scale and siting of the proposal and other material considerations, the principle for the scheme within the defined and established residential curtilage is accepted in this instance.

### **Impact on character and appearance of surrounding area and on the existing dwelling**

28. National Planning Policy Framework (NPPF) states "*the Government attaches great importance to the design of the built environment*". The NPPF states "*permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*". Paragraph 17 of the NPPF also sets out the importance of the 'intrinsic character and beauty of the countryside' as a core planning principle.

29. The proposed access gates (and adjacent brick piers) and low walling beyond, will be set within the site and away from the highway by approximately 20m with the proposed hedgerow planting along the northern boundary that is to be aligned alongside the access into the site. The gate and low walling are positioned within a similar and approved siting as per extant approval 11/1813/COU. In view of the above considerations, it is considered that views to the proposal will be limited. Taking into account the proposed materials and design, it is considered that the proposals are of an appropriate design and scale that is in keeping with the area and will not have an adverse impact on the character and appearance of the rural setting.
30. The erected 1m high 'stock proof' fence would normally constitute permitted development however a restrictive condition on approval 11/1813/COU prevents such structures from being erected as permitted development. The fencing, set off from the highway is considered to be of a modest scale and design that is considered to be appropriate for the rural setting. Furthermore, the impact will be softened by the infant hedge and tree planting immediately adjacent to the erected fence. As such, it is considered that the scheme will not result in an adverse impact on the character and appearance of the rural setting.
31. In respect of the proposed 2m high fence, this would be positioned adjacent to an existing closed boarded fence along the eastern boundary to the site (running north to south) with limited views from the wider area. The proposed retaining wall is also considered to be of a modest design and scale. With regard to the erected brick archway (and proposed access gate), these are also considered to be of a modest scale and design whereby limited views are achievable from wider areas, particularly in respect of the approved, adjacent hedge planting that is required to block up the original access into the site.
32. Taking the above considerations into account, it is considered that the proposed (and erected) development would not result in an overdevelopment of the site, or result in an adverse impact on the character and intrinsic value of the open countryside and function of the Green Wedge (and continued function of the dwellinghouse) and as a consequence would not conflict with policies CS3 and CS10 of the Core Strategy and guidance within the NPPF.

## **Landscaping**

33. The Council's Landscape Officer has raised no objections to the proposed scheme from a landscape and visual perspective commenting that views to the proposals "*would be softened by the proposed tree and hedge planting*".
34. The Council's Landscape Officer has also commented that only hand dug methods should be used in respect of the proposed 2m high fence, which is to be positioned adjacent to protected trees. The Landscape Officer has also recommended an informative in respect of prohibited works adjacent to these trees. These can be secured by an appropriate planning condition and an informative.
35. In respect of the agreed landscaping scheme relating to condition 03 of approval 11/1813/COU, a section of tree and hedge planting has yet to be completed, adjacent to the erected detached garage. As part of the current application, a submitted landscape plan indicates a timescale of 2013/14 planting season for the implementation of this remaining planting. The Landscape Officer considers this to be acceptable. This can be secured by a further planning condition.
36. The materials for the approved access/driveway have already been agreed and discharged as part of approval 11/1813/COU.

37. Objections received make reference to the removal of hedgerows; such works were agreed as part of the approved landscaping scheme for 11/1813/COU to allow for visibility splays to be implemented at the new access. The hedge is required to be realigned/re-planted along this northern boundary in addition to additional tree planting.
38. In view of the above, it is considered that the proposals will not result in an adverse impact on existing protected trees.

### **Amenity of neighbouring land users**

39. Given that modest scale and siting of the proposed and erected works and the satisfactory remaining separation distance to the adjacent property of Handley Cross, it is considered that the proposed scheme will not lead to an adverse loss of amenity and privacy for neighbouring properties.

### **Highway and pedestrian safety**

40. Concerns are raised within residents' objections regarding the future pedestrian access into the site and the proposal resulting in highway safety issues during waste collection days.
41. As part of approval 11/1813/COU, it was considered that the approved new access would result in a form of 'betterment', improving the existing/previous shared vehicular access in terms of highway safety. The Head of Technical Services (HoTS) raised no objections to the proposed access. The current proposal relating to the brick archway and access gate requires planning permission by virtue of planning conditions on approval 11/1813/COU that required the original access to be blocked up to prevent vehicular access into the site (only).
42. In reference to waste collection, the HoTS has commented that the Council's Care for Your Area department, who carry out the collection of refuse, have been consulted on this proposed arrangement and have confirmed that it will only be acceptable in conjunction with a refuse collection from the adjoining property Handley Cross. The HoTS has commented that "*refuse will not be collected from the application property in isolation and the applicant would need to make alternative arrangements on the occasions that this occurs should the proposed arrangements be implemented*". These comments are noted and can be secured by an informative.
43. Notwithstanding this, the Head of Technical Services has commented that he does not support the pedestrian access "*as the potential inappropriate use of the proposed pedestrian access would intensify the vehicular use of a substandard access to the detriment of highway safety and the free flow of traffic*".
44. However, it is considered that in this instance that there would not be detriment to highway safety and the free flow of traffic as the bin collection would only be carried out in conjunction with the bin collection from Handley Cross and the Head of Technical Services acknowledges that the highway safety risk presented by the collection of refuse can be mitigated. It is considered that a planning condition can ensure that the proposed access gate (to be installed within the brick archway) is only opened and accessed on waste collection days only and that the gate is locked at all other times with no access permitted to occupiers of the dwelling (Hedgeside), members of the public or any deliveries to the site. The recommended condition has been considered and agreed by the Council's Principal Planning Solicitor, as being necessary, relevant to planning and the development permitted (from a highway perspective), enforceable, precise and reasonable. As such, and subject to this condition, it is considered that the proposal would accord with the requirements of Para 206 of the NPPF.

45. Notwithstanding the above, should the access gate be used outside of the approved operation/purposes, the applicant would be in breach of a planning condition whereby a Breach of Condition Enforcement Notice could be served.
46. Subject to this condition, it is considered that the requisite planning condition would satisfactorily address the Head of Technical Services' concerns and that the proposed scheme is satisfactory in this instance.
47. The Head of Technical Services raises no highway objections to the proposed fencing, retaining wall and access gates.

## **Residual Matters**

### Visibility splay

48. Approval 11/1813/COU was subject to a condition requiring the provision of 120m visibility splays which were formally agreed and discharged. The Head of Technical Services has commented that this is not shown on the submitted plans for the current application. However as the application does not relate to a visibility splay and the HoTS has confirmed that none of the proposed/erected structures effect the requisite 120m visibility splay, this is not a material planning consideration in the assessment of this application. Notwithstanding this, a planning condition can be appended for the avoidance of doubt, stating that the current scheme does not approve/relate to a reduced visibility splay. A letter of objection indicates that the 120m visibility splay cannot be achieved. As stated above, this is not a material planning consideration in the assessment of the current application.

### Other matters

49. In terms of the application site being under construction for a number of years, as set out in the 'background' section to this report, the application site has benefitted from a number of planning approvals. Furthermore other than a standard condition for the commencement of development for a planning approval (within 3 years from the date of the decision notice), there is no planning condition requiring works to be completed by a certain timescale, particularly for domestic planning applications and such a planning condition could not have reasonably been imposed.
50. In terms of the part-retrospective nature of the current application, whilst the Local Planning Authority does not condone unauthorised works or retrospective applications, the applicant has sought to regularise the situation through the current submission, which is considered to be acceptable for the reasons set out above.
51. With respect to there being no justification as to why the bin store cannot be provided from the new access, this is not a material planning consideration; the applicant seeks to provide a pedestrian access for waste collection which is considered on its planning merits and is deemed to be acceptable for the reasons set out above.
52. In terms of the objections from Handley Cross and the potential problems of maintenance to the existing fence along the eastern boundary, whilst these comments are acknowledged, this is a civil matter.
53. The letter of support received makes reference to a prospective development on land to the west of the application site. However this does not relate to a current planning application (or decision) and is therefore not a material planning consideration in the assessment of the current planning application.

## **CONCLUSION**

54. Subject to the imposition of the identified relevant planning conditions, the scheme as proposed is considered to be acceptable in terms of highway and pedestrian safety, and does not have a significant adverse impact on the character and appearance of the area or lead to an unacceptable loss of amenity for neighbouring land users. The proposal is therefore considered to accord with the provisions of Core Strategy Policies CS3 (8) and CS10 (3) and is considered to be an acceptable form of development.
55. It is recommended that the application be Approved with Conditions for the reason(s) specified above.

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

## **WARD AND WARD COUNCILLORS**

<b>Ward</b>	<b>Yarm</b>
<b>Ward Councillor</b>	<b>Councillor A B L Sherris</b>
<b>Ward</b>	<b>Yarm</b>
<b>Ward Councillor</b>	<b>Councillor Mark Chatburn</b>
<b>Ward</b>	<b>Yarm</b>
<b>Ward Councillor</b>	<b>Councillor Ben Houchen</b>

## **IMPLICATIONS**

**Financial Implications:** As report.

**Legal Implications:** As report

**Environmental Implications:** As report

### **Human Rights Implications:**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report. The detailed considerations within this report take into account the impacts on neighbouring properties, visitors to the area, pedestrians and other relevant parties responsible for; or with interests in the immediate surrounding area. Consideration has been given to the level of impact and mitigating circumstances with conditions being recommended to reduce the impacts of the scheme where considered to do so.

### **Community Safety Implications:**

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report