

Planning Committee

A meeting of Planning Committee was held on Wednesday, 7th September, 2016.

Present: Cllr Norma Stephenson O.B.E(Chairman), Cllr Stephen Parry(Vice-Chairman), Cllr Helen Atkinson, Cllr Carol Clark, Cllr Sonia Bailey(Sub Cllr Nigel Cooke), Cllr Gillian Corr, Cllr Philip Dennis, Cllr Lynn Hall, Cllr Elsi Hampton, Cllr Paul Kirton, Cllr Chris Barlow(Sub Cllr Mick Stoker), Cllr Tracey Stott, Cllr Mrs Sylvia Walmsley, Cllr David Wilburn

Officers: Andy Glossop, Barry Jackson, Emma Leonard, Richard McGuckin, Peter Shovlin, Joanne Roberts(EG&D), Julie Butcher(HR,L&C), Sarah Whaley(AD&ES)

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

Apologies: Cllr Nigel Cooke, Cllr Mick Stoker

P Evacuation Procedure

54/16

The Evacuation Procedure was noted.

P Declarations of Interest

55/16

Councillor Elsi Hampton declared a personal and non prejudicial interest in relation to item 15/1643/OUT Land South Of Kirklevington, Thirsk Road, Kirklevington. Councillor Hampton informed the Committee that she was an unpaid church warden at the local church, St Martin and St Hilary, Kirklevington. The church had submitted comments in respect to the application; however the church of England took a neutral position in relation to planning issues. Councillor Hampton explained that she had not taken part in any discussions relating to the application and there were minutes of meetings to confirm this. Councillor Hamptons husbands name did however appear within some documentation relating to discussion about the application however it was in respect to submitting the comments on behalf of the church as he was secretary of the local parochial church council, which was an unpaid position that Councillor Hamptons husband no longer held. Councillor Hampton was not predetermined and reserved the right to speak and vote on the item.

Councillor Sylvia Walmsley declared a personal non prejudicial interest in relation to item 16/1024/REM Land South of Cayton Drive, Thornaby. Cllr Walmsley informed the Committee that she had been employed by the developer in the past however no longer held a position with them. Cllr Walmsley was not predetermined and reserved the right to speak and vote on the item.

P Recording of Council Meetings

56/16

The Chair informed Members of the Committee and Members of the Public that the Planning Committee meeting was to be recorded as part of the Council's commitment to legislation permitting the public recording of public meetings, and in the interests of ensuring the Council conducted its business in an open and transparent manner. These recordings would be made available to the public via the Council's website. Members of the public present who preferred not to be filmed/recorded/photographed, were asked to make it known so that so far as reasonably possible, the appropriate arrangements could be made to ensure that they were not filmed, recorded or photographed.

P **Minutes**
57/16

Consideration was given to the minutes of the Meeting which was held on the 6th July 2016 for approval and signature.

RESOLVED that the minutes be approved and signed as a correct record by the Chair.

P **15/1643/OUT**
58/16 **Land South Of Kirklevington, Thirsk Road, Kirklevington**
Outline application for the construction of up to 145 dwellings and
associated community and sport facilities (all matters reserved except for
access)

Consideration was given to a report on planning application 15/1643/OUT Land South Of Kirklevington, Thirsk Road, Kirklevington.

Members recalled that the Outline planning application for a residential development of up to 145 houses with all matters of Access, Layout, Appearance, Scale and Landscaping reserved was considered at the Planning Committee on 27 July 2016 when the Planning Committee resolved it was minded to refuse the planning application primarily for the following reasons:

1. The development was unsustainable with no long term guarantee of bus provision and no safe walking route to schools.
2. Unacceptable change to the character of the village and an overdevelopment.
3. Outside limits to development.
4. Unacceptable flood risk and inadequate drainage facilities.
5. Unacceptable highway access and egress to the site.
6. Lack of satisfactory education provision and facilities.

As the decision would be contrary to the recommendation made to the Committee by the Director of Economic Growth and Development Services and may lead to a costs award against the Council. The Planning Development Services Manager, and the Chief Solicitor for Planning had invoked the Protocol for Decisions Contrary to Officers Recommendation to give further consideration to the concerns raised.

The determination of the application was deferred and the Protocol required that the application be reported back to Planning Committee for Members to give consideration to any further advice from Officers before making a final determination.

A copy of the original Planning Committee reports and update report were attached at Appendix 1, 2, 3 and 4. Appendix 5 was Counsel's opinion on how the planning application would be likely to be determined on appeal based on Members reasons for refusal. Counsel's opinion was sought to independently

test whether there were any sustainable grounds which could be relied upon to refuse the application.

The Officers report concluded that Members be referred to the appended Counsel opinion regarding the reasons for refusal proposed by members and the attached report. Members would note that Counsel advised that the reasons for refusal could not be sustained at appeal, with most being unreasonable which could lead to costs being awarded against the council. Whilst the possibility of a costs award could not be taken into account members were advised accordingly as this also went towards the strength and reasonableness of the reasons for refusal.

While it was noted that Counsel opinion included comments on the withdrawal of the proposed Kirklevington bus service after five years, where there had been an appeal decisions in Redmarshall, the Planning Inspector noted that there were concerns regarding the long term future of the bus service in that location but determined the appeal on the basis of the current situation. This reflected the reality that the provision and retention of bus services could not be guaranteed.

Having carefully considered the material planning considerations relating to this application it was considered that the presumption in favour of sustainable development should operate to indicate that the application should be granted unless any consequent adverse impact would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. It was considered that no such adverse impact could be identified.

The Officer's recommendation remained as previously set out in the main report and update report made to Members at the Planning Committee on 27th July 2016 that the Planning Committee be minded to approve the application subject to conditions and informatives as detailed within the main report and update report and subject to a S106 Agreement as detailed within the Heads of Terms within the main report or such other terms as may be deemed necessary by the Director of Economic Growth and Development Service, and that the application be approved under the same terms should the Secretary of State not call the application in. In the instance that the Section 106 was not signed within 6 months from the date of permission being granted, then the application be refused due to lack of the provision for affordable housing, education and other important infrastructure identified in the report.

The Director of Economic Growth and Development Services addressed the Committee regarding each of the six reasons for refusal and Counsel's independent opinion which was sought to determine the validity of the reasons for refusal that had been put forward by Members on the 27th July 2016 as follows:

The first reason for refusal was for sustainability of the village. Reference was made to a villages study which was referred to by the Planning Inspector in relation to an appeal at Redmarshall. The villages study carried out by the Council several years ago was not an adopted document and therefore limited weight could be given to its status. Counsels opinion therefore saw no grounding in which to give the document any greater weight and suggested in doing so would be unreasonable.

The second reason for refusal was the change in character to the village. Counsel viewed this reason as being too vague as there was no specific detail provided. Absence of any evidence of specific harm to the village to warrant refusal was not apparent. Unsubstantiated assertion of overdevelopment was not a reason for refusal.

The third reason for refusal was 'outside limits to development'. The Council did not have a five year supply of affordable housing and currently did not have an adopted Local Plan. The National Planning Policy Framework(NPPF) suggested that residential development should be approved unless there was significant harm, which was not demonstrated here. Where there was no demonstrable supply of housing there was no reason for refusal. Any Inspector considering an appeal would be unlikely to give any weight to this reason for refusal for this application.

The fourth reason for refusal was 'unacceptable flood risk and inadequate drainage facilities'. This concern contradicted all expert and professional advice that had been provided both in the report and to Members from both internal Officers and externally. Local views had been taken into account informing the balance and the recommendation through to Members and any conditions attached, hence using this reason for refusal posed a clear risk and adverse costs for appeal.

The fifth reason for refusal was 'unacceptable highway access and egress to the site'. Highways Officers were more than satisfied that access could be achieved, there was nothing to suggest that there was an exceptional case which would need to be assessed for it to be approved at outline stage. Counsels view was this reason should it go to appeal would not succeed.

The sixth reason for refusal was 'insufficiency of education places', Counsel did not see how this reason for refusal could be substantiated; mitigation by contribution for education places was a standard approach the Council took across the Borough irrespective of rural or urban locations. This was also a similar approach used up and down the country. It would be unreasonable therefore to make this a reason for refusal with adverse risk for cost. In relation to the lack of village facilities and adverse impact on sustainability in general, Kirklevington did have some services in the form of a school, a church, a community centre, a play area and a garage. It was however acknowledged that there was poor or lack of bus service; however there was a clear proposal to provide a subsidised bus service for five years. As with any bus service where it was introduced as a funded new development, 5 years was deemed an appropriate length of time to achieve sustainability of growth in any bus patronage if it was to be achieved at all.

The advice from Counsel was very clear around the unsoundness of the reasons which had been given.

There was clear government policy in the NPPF that suggested development should be approved unless harm could be evidenced and in this case harm could not be demonstrated. It was clear that this piece of land was appropriate for residential development. The Council had no five year supply of housing and the borough needed to grow sustainably. If Members were minded to refuse,

any subsequent appeal was highly likely to be unsuccessful which would see the development approved and the Council therefore liable to substantial costs, possibly as much as up to £100,000. Those costs would need to be factored into the Councils Medium Term Financial Plan.

The Director of Economic Growth and Development Services informed Members that it would be remiss of him in his duties to strongly advise anything other than to approve the application which was brought before them and considered on the 27th July 2016, whilst recognising the lack of rationale behind the reasons for refusal which were set out at that time and to also inform Members that a duty was placed on the authority to ensure that funds were managed effectively and to highlight where there was undue risk of those funds being exercised due to advice not being followed.

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

Members referred to the advice given by Counsel contained within paragraph 8, page 74 of the report, which stated that 'there is nothing in my instructions which provides any reason for thinking that, were the matter to go to appeal following a refusal, an inspector would now be unlikely to take any different approach'. Members felt that it would have been useful if they had had sight of the instructions for the advice which had been sought from Counsel so that Members could have agreed it as a Planning Committee, to ensure that the instructions given over had the full meaning of what the Committee had spoken about in terms of Members reasons for refusal at the previous meeting held on the 27th July 2016. It was also noted that it was felt a window of opportunity existed where at paragraph 19 it was stated that 'if Members continued to take the view that there should be refusal it would be sensible to refine and restrict the reasons for refusal so that a much more focussed case was built around the issue of local sustainability'. Members felt it was worthwhile going back over the reasons given to make sure adequate and suitable wording be agreed.

Members continued to express that they felt the proposal was an unsustainable development outside of the defined settlement limits of Kirklevington Village contrary to policy EN13 of Stockton on Tees Local Plan and Core Strategy Policy CS 7.6 & 7.7. Reference was made to page 4 paragraph 4 of the report which highlighted details of the Inspectorates decision and opinion relating to the long term future of the bus service as detailed in the Redmarshall appeal. The inspectorates view was that although there were concerns about the long term future of the bus service the appeal was determined on the current situation. This reflected that the reality was the provision and retention of a bus service could not be guaranteed. Members highlighted that the current situation in Kirklevington was completely different to that of Redmarshall, in that there was no regular bus service, only a community bus. The bus operated 2 days a week and was extremely limited rendering the village unsustainable. In addition it was stated within the report that the main omission the planning inspectors gave greatest weight to was the provision of a regular bus service. The developer was proposing to fund a regular bus service for a period of five years which would not commence until the 60th property was occupied. The build out rate which would dictate the timescale of the introduction of the limited bus service was unknown. The Kirklevington development site was currently not sustainably located and the proposed mitigation measures put forward, for

example the bus service, would not ensure the development was sustainably located in the future as it was not supported for the lifetime of the development. The proposal was contrary to core strategy CS2 and section 4 of the NPPF promoting sustainable transport. Members went on to refer to the advice that was given by Counsel on page 76 and 77 paragraph 16 where it was stated that, 'Yet if there could be no confidence in the reasonable prospect of a bus service standing on its own two feet thereafter it seems to me that there is a potential argument to be made about the locational sustainability of the development' it also stated that, 'As things presently stand I am not convinced that there is a reason for refusal here which would stand the test of an appeal but nor am I of the view that members' present position is necessarily unreasonable on an issue where room for reasonably differing judgments is more possible than on some of the other aspects of the case'.

Members felt that the application for 145 dwellings was not in scale with the rest of the village. It was an additional 3rd of the whole village. The Council's own analysis found in 'planning the future of rural villages', December 2014 document, that a previous application: 12/1990/ES Green Lane, had argued a reduction of properties from 735 to 370 for reasons detailed within that officer's report. After having read the report Members stated that the model 'YIBAM' was used and demonstrated that the Shell Garage at a nearby roundabout was not acceptable and with modification the impact was considered to be just acceptable and they would never consider a larger development than the 370 properties which were granted. There was no doubt that the local road network was under great pressure, and cumulative effect of any further developments made it unsustainable. There had already been additional applications and permissions after the approval of the 370 houses and decisions were now being based on out of date information which was having a profound effect on road safety. The additional traffic would add to queue lengths, congestion and travel time through Yarm. Overall it was felt that there would be a severe impact on highway issues affecting sustainability and safety.

Concerns were raised in relation to the access onto the A67 as this was a 60mph zone and was unsatisfactory as an access and egress. Absence of full detail made it impossible for safe and suitable access to the site achievable, contrary to paragraph 32 of the NPPF. One Member in particular visited the site which had confirmed to her that the site could not access the village without going out onto the A67 and in again on Forest Lane. Pump Lane only had a single footpath and a narrow access road with a sharp bend where it would be found difficult to cope with the potential 300 additional vehicles. This would undoubtedly harm village life. Sustainability, safety, the scale of the development, access and egress were all therefore still a concern.

Where it was stated that Stockton Borough Council did not have a five year supply of affordable housing seemed to preclude that the Committee should be in favour of any development, however there was evidence in the form of an appeal decision at Great Ayton which was shared with the Committee where the Planning Inspectorate stated that 'the lack of a five year housing supply of land does not automatically lead to the grant of planning permission, even where there are sustainable benefits from the provision of affordable housing and other benefits to a village such as this place, paragraph 8 of the NPPF states that the three sustainable roles should not be taken in isolation because they are mutually dependent' this was a statement from the planning inspector that a five

year housing supply did not automatically lead to the granting of planning permission. The appeal was rejected by the planning inspector. Members felt that it was important that examples were sought where the planning inspector had rejected officer recommendations and was in favour of the Planning Committee at appeal just as much as it was important to be advised where the inspectorate had ruled in favour of officer recommendations.

Where the reason for refusal related to the character of the village it was highlighted that the 'proposed development was out of scale with the character of the village and would result in substantial harm to the setting of a grade 2 star church of St Martin contrary to policy EN28 of the Stockton on Tees Local Plan, Core Strategy policy CS3 paragraph 8 and paragraph 132 of the NPPF. Paragraph 132 of the NPPF stated that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the assets conservation. EN28 of the Stockton on Tees Local Plan stated that developments which were likely to detract from the setting of listed buildings would not be permitted.

It was considered that the advice received from Counsel had left a window of opportunity for Members to refine the Committee's wording for reasons to refuse and that maybe the six reasons were reduced to be more concise.

It was also highlighted that comments relating to costs were not a material planning consideration.

Reference was made to Counsels advice on page 76 of the report which stated that, 'The ninth proposed reason for refusal is the lack of safe walking and cycling routes to Yarm to access facilities there. His reason focuses on safety (rather than distance or convenience). I am told that officers do not consider that routes are unsafe'. The point of the access to facilities in Yarm was one of safety and proximity with the site falling well outside of the recommended walking distance to local facilities.

Some Members were of the opinion that if the Committee were to ignore the professional advice given and try and take on the government on it would be lost at appeal, incurring high costs and therefore would reluctantly vote in favour of the application.

Officers were given the opportunity to address the Committee in relation to issues/ concerns raised. Their comments could be summarised as follows:

The Chief Solicitor,(Planning) explained to the Committee that it was not usual practice to provide sight of the instructions to Counsel which was directly delegated to Stockton Borough Councils legal department. It was suggested that should Members wish to see the instructions they could be made available. In relation to the comments made by Members in relation to Counsels advice to refine and restrict reasons for refusal, it was confirmed to Members that they could re consider the reasons for refusal although it was clear that Counsel had not suggested any of the reasons were sustainable at appeal other than the operation of the bus service, however very good and clear specific evidence would be required. Officers however were not satisfied that this would be a strong enough reason for refusal and were of the opinion that a five year period was sufficient time to prove a sustainable bus service as evidenced in the

Redmarshall planning appeal.

The Director of Economic Growth and Development Services also confirmed that there was flexibility regarding the bus service which could be detailed within the Heads of Terms and the speed in which the development progressed. The bus service could commence one to two years into the development therefore a view would need to be taken of how the subsidy was profiled. The bus service could last for 7 years from the start of the development which Members could consider should they be minded to continue to consider it a reason for refusal.

Where comments had been made in relation to possible cost implications the Director of Economic Growth and Development Services informed the Committee that he had a corporate duty as part of the Senior Management Team to advise all 56 Members where appropriate on matters of the Councils Medium Term Financial Plan.

Following Counsels and Officers advice the opinion of the Director of Economic Growth and Development Services was that the reasons presented for refusal were weak. The NPPF suggested that approval be given unless harm could be demonstrated which was not the case here. Several Members had quoted policies from the Local Plan however the Councils Cabinet this year received a report suggesting that the evidence review of the policies that were in the current adopted Local Plan were out of date and therefore Cabinet had approved the Local Plan process to be re started, therefore there was insufficient material weight to use them. Some traffic arguments had been re-introduced by the Committee in terms of the wider traffic impact which was not a reason for refusal. In terms of access Counsel reported that there was technically sound advice that the access could be achieved.

Where issues were raised in relation to the bus service points, the Director of Economic Growth and Development Services accepted Counsels point was perhaps more balanced when compared to the other proposed reasons for refusal, however it was insisted that there was a risk to reputation and finances should Members be minded to refuse the proposal which would be contrary to sound, professional legal and financial advice and that of the Director of Economic Growth and Development Services and the Senior Management Team.

On the specifics of the comments raised relating to the Shell Garage Service Station and the previously approved Green Lane application, the Director of Economic Growth and Development Services explained that the traffic from that development was indeed coming from a different direction and therefore there were differences in the traffic model for each development.

The Director of Economic Growth and Development Services highlighted that a Local Plan was needed and the Government had a clear direction of travel for local authorities to do that. A Members Policy Seminar had been held earlier in the year and there were further member engagements planned in relation to the local plan process with the Cabinet Lead and the Chair of Planning which would continue throughout the next 12 month period.

The Chief Solicitor, (Planning) confirmed that costs were not a material planning consideration, and this had been pointed out in the Officers report within the

conclusions at paragraph 41. It was the duty of Officers to advise what the consequences would be from that point of view but also if they were so unreasonable as to amount to cost it would go to the strength of the reasons for refusal and their unreasonableness which was what the Committee were charged to adhere to. The Committee were to make a lawful and reasonable decision which was why legal advice had been provided to assist Members.

In terms of the comments made relating to the NPPF and the lack of a 5 year supply of affordable housing, this did not mean that planning permission must be granted in every case, it meant that members must revert back to the NPPF and it meant that all of Stockton Borough Councils housing supply policies were out of date and could not be relied on which included policies like the limits to development.

The following condition was requested should Members be minded to approve the application:

That there should be no access for construction, delivery and personnel from St Martins way, which was a cul-de-sac and which could only be accessed from Forest Lane and the Green and would present a road safety hazard.

The Traffic and Network Safety Manager confirmed that there was a construction management plan as part of the conditions and should Members be minded to approve the application assurances were given that the requested suggestion would be included.

A vote then took place and the application was approved.

RESOLVED that the Officer's recommendation remains as previously set out in the report and update report made to Members at the Planning Committee on 27th July 2016 that the Planning Committee be minded to approve the application subject to conditions and informatives as detailed within the main report and update report and subject to a S106 Agreement as detailed within the Heads of Terms within the main report or such other terms as may be deemed necessary by the Director of Economic Growth and Development Service, and that the application be approved under the same terms should the Secretary of State not call the application in. In the instance that the Section 106 is not signed within 6 months from the date of permission being granted, then the application be refused due to lack of the provision for affordable housing, education and other important infrastructure identified in the report.

P 16/1024/REM
59/16 Land South Of Cayton Drive, Thornaby,
Application for reserved matters approval (appearance, landscaping, layout, access and scale) for the erection of 45 No. dwellings, access from Cayton Drive and ancillary works pursuant to outline planning consent ref:15/1466/OUT

Consideration was given to a report on planning application 16/1024/REM Land South of Cayton Drive, Thornaby.

The Planning committee had considered the application on the 6th July 2016 which was based upon the officer's report presented to Committee and which

recommended approval subject to condition (Appendix 2). In considering the proposal, the Planning Committee raised a number of concerns which were partly in relation to the proximity of development to the northern site boundary and partly on the basis of there being only a single access serving the development. The Committee requested that these matters be looked into further and for the application to be placed back to committee at a later date.

The applicant had sought to revise the proposed layout of the development to amend the position of properties along the northern boundary and had sought to comment further on the proposed access.

A consultation was undertaken on the revised information and the responses received were summarised within the main report.

Following the responses received from the developer the Officers report concluded that the application be determined in accordance with the recommendation within the main report subject to the amendment of approved plan references in order to reflect the latest plans submitted.

The Senior Planning Officer presented Members with revised slides which related to the two main points which the Committee requested for further consideration by the Applicant.

Members attention was drawn to the revision of the proposed layout of the development, the third party owned ransom strip and the concerns raised in relation to the lack of a second access and suitable access for emergency vehicles.

Where concerns had been raised at the meeting on the 6th of July relating to additional access to the site, the Senior Planning Officer had been informed that the Applicants solicitor had contacted the current owners of the strip of land leading out onto Middleton Avenue by telephone which was preventing additional access, however no response had been received as yet. The Applicant however was satisfied with a single access on technical grounds.

Clarification was sought as to the intention of the developer should they acquire the ransom strip and if so would they then provide a second access to the site. Officers informed the Committee that only the applicant could confirm this. The Applicant was not in attendance at the Planning Committee meeting to clarify the situation.

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

It had only been 2 months since the decision had been deferred for the Applicant to look again at certain areas of the plans in more detail, however the Committee was back here today with the concerns raised not being addressed as follows:

1. It was asked that the developer use up to date plans to properly show the vast number of extensions to existing residential properties, instead of using out of date site plans. The Applicant simply made an overlay to the existing plans with a google map and did not make any modifications. The proposed

development still showed properties the same distance from the existing properties. Issues of loss of light and privacy would still occur. The idea of using new plans was to actually amend the developers' plans to compensate for the extensions and conservatories that they had not taken into account previously.

2. Where there had been privacy concerns due to the close proximity of the planned houses next to existing residents, the developer had proposed the erection of a tree at an existing residents boundary wall, this would allow additional access to view existing residents homes should someone wish to climb it.

3. Concerns relating to the access points and the land dispute issues, all the developer had done was produce a biased road analysis from a paid up third party which listed facts and figures relating to road width etc. Reference was made to a photograph which was available on the planning website on August the 30th. The road clearly would not accommodate fire engines or any sort of heavy earth movers needed for construction. The land dispute clearly still remained. The original plans which were sent to the planning inspectorate had two access roads, if the developer was not able to guarantee a second access point why was it submitted, would it be deemed favourable when being presented to a neutral decision maker?

It appeared to some residents that the only difference was that a number of shrubs had been replaced by hedges. It was felt that the revised proposal was farcical and insulting to everyone involved in the proceedings and that the application had come back to Committee for consideration too soon.

It was a travesty that the application was before the Committee at all. There had been a number of previous applications refused due to the land being considered green wedge and part of the Tees Heritage Park.

A development was granted on appeal, the planning inspectorate stated that any green wedge annotation in the proposed locality fell away with the adoption of the Core Strategy. The Core Strategy was an indication of the extent of green wedge but it clearly excluded the appeals site. The inspectorate went on to state that he understood the previous reasons for refusal however this was now not the situation. The Council did not contest the appeal. There had been no attempt to defend this site by the local authority as had once been agreed.

It was ridiculous to suggest that Cayton Drive could be used as a single access point for the proposed development. Cayton Drive was already narrow and congested which would become a death trap with the addition of over 100 extra car movements a day. Why had the Applicant not submitted a revised plan to show 2 entrances, one from Cayton Drive and one from Middleton Avenue? Was this due to Land owner issues at Middleton Avenue or was it due to squeezing as many properties on the development as possible?

The Applicant had recently submitted their own highways plan. The plan was poorly produced and clearly biased and made no reference to the quality of life of local residents.

It should be remembered that the original application was approved on appeal against the wishes of local democracy. Mr Major the Planning Inspector laid

down conditions for the developer to adhere to, in particular that the developer should not make existing dwellings an unacceptable place to live. Did the Council and the Developer not see that having a 30ft gable wall 20ft away from a resident's kitchen, living or bedroom window putting a house into almost permanent darkness would make their lives a misery? Ingleby Barwick was laid out in such a way that there were no gable ends close to neighbouring properties living spaces. The Inspector also based his decision on the original site plan which alluded to 2 entrances to the site, since then 1 entrance had mysteriously disappeared, and as discussed there would be serious safety implications on Cayton Drive as the only access point. Was the appeal inspector misled?

At the last meeting held in July 2016 the Committee told the Applicant to go away and produce a plan with a much reduced impact on residents and reinstate 2 entrances to the development. The Applicant had done nothing but submit the same application with some minor irrelevant tweaks.

When the developer was granted outline planning permission it was not given licence to do as it pleased and ignore conditions set out by the appeal Inspector. One of those conditions was to minimise the impact on existing residents, however they had failed to do so. The Planning Committee had recognised this and sent the developer away to redraw plans so residents would not be faced with the wall of a house against the boundary of resident's very short gardens. The Developer had failed to do this.

It appeared that the Planning Department of Stockton Borough Council were less concerned about existing residents by choosing to support the developer. Surely it was the Planning Departments job to recognise when a developer was stepping over the mark and take appropriate action.

As outline planning was granted with 2 access points, the failure to do so must make the application null and void.

The Developer may claim they were abiding within planning regulation however they had not measured the shallow depth of a resident's garden and had placed a gable end of 2 semi-detached properties even closer to his boundary more than any other on the proposal. These were the only houses to have a bathroom window and side utility door facing directly into the residents living room extension which was still not shown on the site plan. It is only the Planning Committee that had the power and the authority to compel the developer to radically re-draw the site plans and insist on two means of access.

An Objector drew the Committees attention to one of the presentation slides which highlighted the lack of light in existing residents back gardens. A tree which was shown on the slide indicating the extent of overshadowing to an existing property. The tree would have been nowhere near the size of some of the proposed properties which were considered to be too close in proximity to existing properties affecting the amount of natural light into residents back gardens.

It was highlighted that the photographs used to demonstrate the amount of parked cars on the access roads were taken when people were not at home. If the pictures were taken during the evening it would have highlighted how many

cars did park on the roadside and that emergency vehicles would have trouble negotiating the access road during that time.

Cllr Mick Moore Ward Councillor for Village Ward Thornaby was in attendance at the meeting and given the opportunity to make representation. His comments could be summarised as follows:

Councillor Moore requested that the Committee defer the application until the access and egress issues surrounding two access points had been resolved. One access through Cayton Drive was a nonsense. It would put extra traffic on an already overcrowded part of the estate. If only one access was to be considered then this must be off Middleton Avenue away from the existing houses.

The questions the Committee should be asking was, had the developer approached the owners of the strip of land and asked for permission to use it which would solve a massive problem.

Had the Committee had a site visit to gauge the problems of extra traffic?

Officers were given the opportunity to address the Committee in relation to issues/ concerns raised. Their comments could be summarised as follows:

With regard to the comments made relating to the outline planning approval by the Inspector, the outline approval did not indicate that there was a requirement for a second access nor did it put any condition on it that there was a specific requirement for 2 accesses. Had it required specifically 2 accesses then the Inspector would have been required to demonstrate that.

In terms of questions raised relating to the ownership of the ransom strip, Officers understood that to be 'Places for People'.

Issues raised relating to green wedge, and whether the Council did or did not defend the green wedge status. This related back to the Tiviot Way decision, which was an Inspectors decision and which the Local Planning Authority had to take into account and have to give due regard as a material planning consideration. That was debated and came to a conclusion of the green wedge and the designation and for future decision making Officers and Members were required to use that as a material planning consideration, therefore in view of that Officers could not give weight to the site being green wedge. The Inspector did refer to that in the outline decision issued.

Concerns raised in terms of access, it was highlighted that previously there had been 3 scenarios which had been considered, these were access off Cayton Drive, access of Middleton Avenue or both. Any one of those scenarios was deemed acceptable which was what the Planning Inspector considered. Cayton Drive was the least favourable due to it being narrower however in highways terms, Officers informed the Committee that their advice would remain the same as the access was acceptable and in line with current guidance.

In terms of emergency access, that was something which was covered by building regulations which was on the advice of the Association of Chief Fire Officer's, that advice was built in to manual for streets which was also

considered at this time.

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

It was acknowledged that where one of the objectors had highlighted the overshadowing of a tree evidenced in one of the slides, this was during the summer period when the sun was at its highest. If there was a gable end in close proximity to the property it would not have the benefit of losing its leaves as the tree would and the sun would also be lower in the sky therefore creating an adverse impact on its immediate neighbours. Discussion had taken place in a previous meeting of turning the proposed layout of the site around and having the bigger gardens at the top of the site and the smaller gardens at the bottom which would have been more suitable.

Little progress had been made on site access and Members preference was that access would have been via Middleton Avenue rather than Cayton Drive. The currently proposed access was the least favourite of the three scenarios. It was suggested that the Applicant take more time to discuss further the issues surrounding the ransom strip which was currently owned by 'Places for People', and to come up with a better solution in terms of this.

It seemed to Members that as the Applicant had now proposed an additional dwelling from the original plans (plot no.40) on the very location where access could have been achieved off Middleton Avenue, assuming issues surrounding the ransom strip had been resolved, this indicated there was no intention to investigate the second access further. It also indicated little effort had been made to contact 'Places for People', except for the phone call which had received no response as highlighted by Officers during the meeting.

Traffic safety issues were still a real concern, especially as Bader School was in close proximity and was notably chaotic during drop off and pick up times. In addition a number of after school activities were also held at Bader School which were accessed by people from all over Thornaby which would also impacted on traffic safety issues.

The Applicant had done very little to address the Committees concerns from the previous meeting.

Officers were given the opportunity to address the Committee in relation to issues/ concerns raised. Their comments could be summarised as follows:

The Applicant had been asked to look at the two accesses at the last Committee meeting and had chosen to stick with the access off Cayton Drive, which was technically supported.

The layout had been tweaked by the Applicant and that was what was to be considered today.

A motion to defer the application was made and seconded.

A vote took place and the deferral was approved.

RESOLVED that application 16/1024/REM Land South Of Cayton Drive, Thornaby be deferred for improvements to the scheme previously requested.

P **16/1929/LBC**
60/16 **Newport Bridge, Tees Newport Bridge Approach Road, Stockton-on-Tees**
Listed building consent for a new LED lighting scheme

Consideration was given to a report on planning application 16/1929/LBC, Newport Bridge, Tees Newport Bridge Approach Road, Stockton on Tees.

Listed Building Consent was sought for the provision of a LED lighting system to the bridge. The scheme had been designed which splits the bridge into key areas for illumination. Careful positioning and detailed selection of equipment ensured the whole structure would be viewed as one coherent and harmonious lighting scheme and wherever possible the illumination source would be invisible from the key viewpoints. A control system would allow any individual luminaire to be independently changed to provide almost any required colour palette and also create dynamic 'moving' effects.

Concern had been raised that this bridge was at the junction of two river wildlife corridors and multi-coloured LED lighting was inappropriate as it may affect insects such as moths and may disturb the nocturnal environment for animals such as bats. Tees Valley Wildlife Trust had considered the scheme of lighting and had raised no concerns.

Concern had also been raised by a resident that this location already had a problem with people climbing the structure and lighting the bridge may increase risk. Whilst noted, this was a matter which would need to be dealt with under separate legislation.

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

Neighbours were notified and the comments received were detailed within the main report.

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

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

The planning policies that were considered to be relevant to the consideration of

the application were contained within the main report.

The Planning Officers report concluded that overall it was considered that the lighting scheme as proposed was considered acceptable, and the submitted photographs demonstrated that the scheme would be visually acceptable and not harmful to the special interest of the bridge which was primarily in its unique design as a lasting symbol of industrial history and an iconic structure on the Tees.

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

Concerns were raised relating to the point of view from the railways however it was appreciated that this would be difficult due to safety issues.

Network Rail had indicated that the lights on the bridge must be static and not appear as flashing however the application in front of Members stated that 'A control system will allow any individual luminaire to be independently changed to provide almost any required colour palette and also create dynamic moving effects'. If Network Rail were stating the lights must be static then this must be so. Surely if it was not possible to do what was originally intended due to the requirement of static lights then could the existing bulbs be changed without going through the expense of doing something over and above requirements.

A Member expressed his desire to have a more substantial comment over and above the points Network Rail had forwarded and which had been made available to the Committee as Network Rail had some very significant concerns.

Questions were raised as to the impact of the lights onto oncoming traffic and if this would be hazardous to drivers.

Clarification was sought as to who would be responsible for the cost of the new lights.

The original scheme was 2003 which was now deemed as not fit for purpose. Was it not possible to just replace the existing lighting with LED lights as was happening with some street lights, as cost was an issue during times of austerity? In addition if the lights were to be static then wouldn't it be better to utilise the existing lights.

Some Members were not in favour of multi-coloured lights and felt it would be more cost effective to use a single colour bulb in the existing lighting.

The proposals were welcomed by some who felt it was time a feature was made of the bridge. It would be easy to control the flashing element by not operating that part of the control system.

Clarity was sought as to whether there would be any adverse impact on wildlife.

This bridge was a beautiful structure that deserved lighting up. Officers were given the opportunity to address the Committee in relation to issues/ concerns raised. Their comments could be summarised as follows:

In terms of the issues raised relating to the possibility of the luminaires creating a hazard to drivers, it was explained that all of the luminaires were to be built into the structure therefore not creating a glare for motorists. Stockton on Tees Borough Councils Partners carried out a night time trial under live traffic conditions which demonstrated that the lights were all pointing down and not towards the motorist and there was no glare in either direction.

Where concerns had been raised relating to flashing lights, this was effectively trialled to show that the lights could do whatever the Council would want at the appropriate time. If there was no requirement for flashing lights then this would be the case. Also in terms of colours, the lights would be flexible enough to choose single colours or multi colours as and when required.

Network Rails comments were submitted quite late into the process which needed to be digested and followed up with conversations with colleagues at Network Rail and also with internal stake holders to investigate mitigating any issues raised.

The Planning Development Services Manager clarified to Members that they were to consider the actual building application which was to fit the lights to the bridge which was the part which required consent and whether it was in keeping with the character of the bridge being a listed structure. Concerns had been raised by Members which were understandable due to the points raised by Network Rail however all those issues could be addressed. The Council would not operate a system which would cause a hazard to the rail network. The operation of the lighting was outside the application and not for consideration at Planning Committee.

Officers confirmed that Stockton Borough Council were responsible for the cost of the new lighting scheme.

It was confirmed by Officers that Tees Valley Wildlife Trust were satisfied that there was no issue in relation to adverse impact on wildlife.

A recommendation was made and seconded to defer the application.

A vote then took place for the deferment which was refused.

A vote then took place and the application was approved.

RESOLVED that: Listed Building Consent application 16/1929/LBC be approved subject to the following conditions and informatives;

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

Plan Reference Number	Date on Plan
A10723/2700/001 REV P0	27 July 2016
10723/2700/002 REV P0	27 July 2016
10723/2700/003 REV P0	27 July 2016
10723/2700/004 REV P0	27 July 2016
10723/2700/005 REV P0	27 July 2016
10723/2700/006 REV P0	27 July 2016

10723/2700/007 REV P0 27 July 2016

10723/2700/008 REV P0 27 July 2016

10723/2700/009 REV P0 27 July 2016

02 Fixing method and cable routes

The scheme of lighting shall be undertaken in accordance with a scheme of fixing and cabling which has first been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority found the submitted details satisfactory subject to the imposition of appropriate planning conditions and has worked in a positive and proactive manner in dealing with the planning application.

P **1. Appeal - 2 West View Terrace, Eaglescliffe, TS16 0EE - 16/1091/FUL -**
61/16 **DISMISSED**

RESOLVED that the appeals were noted.