

DELEGATED

AGENDA NO 8

PLANNING COMMITTEE

22 FEBRUARY 2017

**REPORT OF DIRECTOR,
ECONOMIC GROWTH AND DEVELOPMENT
SERVICES**

16/1603/OUT

Car Park, Navigation Way, Thornaby

Outline application with some matters reserved except for access for the erection of up to 150 residential dwellings and associated access.

Expiry Date : 18 November 2016

UPDATE REPORT

SUMMARY

1. This report updates the report for agenda item 8.
2. A further consultation response from Mr James Beall has been received and is set out below: -

I hope you can accept this email as a further submission on this application since I've had problems accessing the online portal from home:

Having read the committee report and recommendation, I would want to confirm my objection and make the following additional points; I regret that I will be unavailable to make them in person since I must chair the Health & Wellbeing Board on the afternoon of Planning Committee.

Firstly, I earlier provided photos taken last July during the National Jet-Ski Championship which act as a visual support to the objection raised by Mr Paul Maleary regarding the loss of the site for prestigious events; despite them not featuring in the report, I do hope that Planning Committee can view at least one of these on screen. I note that the Canal & River Trust are of the same opinion about the adverse effect of the loss of facility should the application be approved.

I am perplexed that the application is for up to 150 dwellings yet the report and outline site plan indicates 96 units. Does this not mean that a subsequent developer could increase the dwellings by some 50%? What is worse and unacceptable is that there is no affordable housing provision and this is based on the applicant's self-assessment and this from a non departmental government body whose raison d'être is to fund affordable housing! As a minimum, due diligence should take place by referring this matter to the District Auditor for an independent opinion - as the planning authority has done on some previous occasions. We need all the affordable housing we can get within the Borough. Phase I of Northshore opposite contained affordable provision so there should be no reason why any other riverside development should not be able to.

As a resident living across the river from Johnson-Matthey-Davey, I can testify that their noise generation is variable and often very loud despite the additional measures they had to introduce

following the intervention of the Council's Environmental Health noise specialists. The noise assessment does not appear to consider the fact that they have planning permission for a similar plant which will undoubtedly increase generated noise. Wardell Armstrong's letter dated the 17th Feb sheds further significant concerns on the appropriateness of residential accommodation on this site in the proximity of the industrial block(s).

The Teesside Development Corporation were not famed for their master planning of the wider Teesdale area and we continue to respond to ad hoc developments. I would strongly urge refusal of any further applications until a masterplan can be drawn up for the remaining undeveloped area of the south shore which could ensure a proper, workable balance of usage, including residential and leisure.

Whilst I appreciate that what I am about to write is not necessarily a planning consideration, it needs to be stated. This "informal" car park, (the applicant rightly calls it the Events Car Park), has been in use as such since the days of the Teesside Development Corporation, which ended in 1998. I can but speculate that the reason the Homes & Communities Agency are now bringing this forward for development is because they would likely have to transfer the land to the Land Commission of the Tees Valley Combined Authority as part of the devolution deal agreed with the Secretary of State for Communities & Local Govt. It appears to be nothing more than a "fire sale" driven by the Treasury's desire to realise assets that would otherwise be lost by central government. As an elected representative of local people, I think it is a cynical disregard of and affront to local determination and unacceptable behaviour from a public body.

3. Comments have also been received from Mr Graham Lipthorpe, 22 Grinton Court, Stockton-on-Tees:-

The Tees Barrage is the jewel in the crown of Stockton. It is a great leisure and recreation area that is well used and popular with walkers, dog walkers, water sports enthusiasts and nature lovers all year round as well as people from around the country who use the White Water caravan site in great numbers.

It should be retained as a leisure and recreation and if developed further it should be for further leisure and recreation opportunities.

Stockton has suffered at the hands of planners and developers for a hundred years with inappropriate industry and urban development making large parts of the town an eyesore.

To take an area that is genuinely attractive and enjoyable to visit and make an unimaginative and detrimental decision to build housing is nothing short of disgraceful. The Northshore development has already provided housing for that area and the site next to it that was earmarked for the University is now available for housing. With the university leaving town I'm sure large areas of that site will eventually become unused and derelict and would be more suitable for housing, away from the natural beauty of the Barrage area.

Unfortunately this is symptomatic of the lack of creativity and imagination that council constantly displays in its planning decisions. No regard and concern for the needs of the people has been shown, just a witless race to build housing on any available open space.

4. Further comments have also been received from Wardell Armstrong LLP on behalf of Johnson Matthey Davy Technologies Limited:-

Wardell Armstrong LLP was instructed by our client, Johnson Matthey Process Technologies Limited, to review the most recent acoustic site suitability assessment provided to us by your Environmental Health department on 3rd February 2017. The document for review was produced by Arup, dated 10 January 2017 and has a reference number AAc/242531-00/R01 Rev 3. We only reviewed the sections that were noted to have been amended on the document verification sheet

provided at the start of the report. We were also provided with a draft condition by your Environmental Health department which was reviewed alongside the most recent Arup report. Subsequent to this review, there was a discussion with the Environmental Health department over the wording of a condition that would result in the degree of comfort needed by our client to ensure that any future housing development would not prejudice the operation of its business. However, our client remains concerned that the noise measurements presented in the Arup report are not representative of noise which may arise when both air compressors, which are deemed by Arup to be the most dominant noise source from our client's facility, are used at full capacity 24/7. For our client to remove its objection, the following actions would therefore be necessary. Firstly, the proposed noise condition relating to industrial noise, as kindly provided by your Environmental Health department, would need to be amended to read as follows:

"As part of any application for reserved matters, details of the construction and layout of the dwellings and boundary noise attenuation shall be submitted to the local planning authority for approval. Noise attenuation measures should ensure the following criteria are met: Industrial noise should not exceed 5dB above the daytime measured background noise (LA90) (07:00-23:00) when assessed in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. Where properties are subject to industrial noise, Noise Rating Curve NR 25 will be required to be met at all octave band frequencies between the hours of 0700 and 2300 (daytime period) when measured within the properties with acoustic ventilation open. Industrial noise should not exceed 0dB above the night time measured background noise (LA90) (23:00-07:00) when assessed in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. Where properties are subject to industrial noise, Noise Rating Curve NR 20 will be required to be met at all octave band frequencies between the hours of 2300 and 0700 (night-time period) when measured within the properties with acoustic ventilation open. None of the dwellings shall be occupied until the noise attenuation treatment has been provided in accordance with the approved details.

Secondly, the assessment must be based on measurements of compressor noise taken when both compressors are running simultaneously at full capacity. Our client must be assured that this worst case situation is accounted for.

Wardell Armstrong will be undertaking measurements on behalf of Johnson Matthey Process Technologies Limited under this scenario and the results will be made available to both the developer and its agent, and to Stockton-on-Tees Borough Council and its Environmental Health Department.

Summary

As the noise assessments submitted in support of this application still do not consider the worst case compressor noise, i.e. two compressors operating at full capacity or the tonal components of the industrial noise our client still maintains its objection to the proposed residential development. Requirements that would need to be fulfilled for the objection to be removed are listed above.

Material Considerations

5. Many of the comments received set out above and the issues raised have been addressed in the main report.

6. In respect of the use of the land as an events car park, whilst the application site has been used to support events, this is an informal arrangement. The site is not in Council ownership and the land owner can cease this arrangement at any time. Furthermore the development is proposed on an allocated site for mixed use development including housing and is also allocated in the emerging draft Local Plan for up to 150 residential units. The site is a sustainable core brownfield site and housing applications are to be considered in the context of the presumption in favour of sustainable development in economic social and environmental benefits. The proposed scheme also provides for extensive public open space which would allow for public use.

7. In respect of affordable housing provision the site is constrained by a number of site "abnormals" (particularly relating to ground conditions) which make the provision of affordable housing on the

site unviable. The HCA states that it has spent significant amounts of time and resources redesigning the engineering and delivery strategy for the site to try to make costs savings to accommodate an affordable product, but the site abnormalities and constraints, make this impossible.

8. Core Strategy Policy CS8 is clear in its requirement for a robust justification to be made should affordable housing fall short of the target range of 15-20%. The applicant, the Homes and Communities Agency (which is an executive non-departmental public body, sponsored by the Department for Communities and Local Government) has submitted an economic viability appraisal which demonstrates that it is not feasible to meet the level of affordable housing normally required and still be economically viable. The Local Planning Authority is satisfied with the appraisal submitted by the HCA which is an organisation considered by the Government as a key agency vital for boosting housebuilding and speeding up the delivery of new homes. The HCA's land disposal is governed by central government policy and practice and by procurement legislation and is required to safeguard the public resources at all times.

9. The National Planning Policy Framework says that plans should be deliverable and that the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Understanding Local Plan viability is critical to the overall assessment of deliverability. Local Plans should present visions for an area in the context of an understanding of local economic conditions and market realities. This should not undermine ambition for high quality design and wider social and environmental benefit but such ambition should be tested against the realistic likelihood of delivery.

10. The National Planning Policy Framework policy on viability applies also to decision-taking. Decision-taking on individual schemes does not normally require an assessment of viability. However viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible.

11. It should be noted that the HCA continues to aspire to provide an affordable product on the site. Therefore, in the event that the scheme becomes more profitable, for example through an alternative engineering solution or indeed an improvement in residential market values in this locality, then the HCA would wish to capitalise on this by ensuring that any saving/uplift is used to secure the delivery of affordable housing on the site. The HCA would capture this via a clause in the sales contract entered into between the HCA and the developer of the site.

12. Turning to issues raised in the submitted noise comments from Wardell Armstrong on behalf of Johnson Matthey Davy Technologies Limited. The Environmental Health Unit has fully considered these comments and accept the incorporation of a Noise Rating Curve to be implemented as part of a condition to control noise.

13. It is therefore recommended that the following condition is imposed upon the development, and replaces the existing noise condition, should the development be approved. The revised wording is as follows: -

As part of any application for reserved matters, details of the construction and layout of the dwellings and boundary noise attenuation shall be submitted to the local planning authority for approval. Noise attenuation measures should ensure the following criteria are met:

- *A maximum of 50dB(A) 16 hour LAeq 0700-2300 hours within back garden external amenity areas.*
- *A maximum of 35dB(A) 16 hour LAeq 0700-2300 hours within indoor living areas with windows shut.*

- A maximum of 30dB(A) 16 hour LAeq 2300-0700 hours within bedrooms with windows shut.

Industrial noise should not exceed 5dB above the daytime measured background noise (LA90) (07:00-23:00) when assessed in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. Where properties are subject to industrial noise, Noise Rating Curve NR 25 will be required to be met at all octave band frequencies between the hours of 0700 and 2300 (daytime period) when measured within the properties with acoustic ventilation open.

Industrial noise should not exceed 0dB above the night time measured background noise (LA90) (23:00-07:00) when assessed in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. Where properties are subject to industrial noise, Noise Rating Curve NR 20 will be required to be met at all octave band frequencies between the hours of 2300 and 0700 (night-time period) when measured within the properties with acoustic ventilation open.

Submitted details must incorporate the suggested orientation and proposed setback distance for properties of 115m from the dominant noise source at Johnson Matthey Davy Technologies, as indicated in the Acoustic Site Suitability Assessment by ARUP dated 21st December 2016.

14. In respect of the comment that Johnson Matthey Davy Technologies “has planning permission for a similar plant which will undoubtedly increase generated noise”. The potential for noise levels to increase due to the approved planning permission at Johnson Matthey (14/1582/FUL) was considered at that time and a condition was imposed on the development to control noise and requires that ‘any new plant installed subsequent to the approval shall not increase back ground levels of noise as agreed without the agreement in writing of the Local Planning Authority’.

CONCLUSION

15. The additional responses do not alter the recommendation of the main report, which is that the application be approved with conditions.

**Director of Economic Growth and Development Services
Contact Officer Mr Gregory Archer Telephone No 01642 526052**

WARD AND WARD COUNCILLORS

Ward Mandale And Victoria

Ward Councillor(s) Councillor Tracey Stott

Ward Councillor(s) Councillor Sonia Bailey

Ward Councillor(s) Councillor Paul Rowling

IMPLICATIONS

Financial Implications: As Report

Environmental Implications: As Report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

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

Background Papers

The Town and Country Planning Act 1990.

National Planning Policy Framework

Stockton on Tees Local Plan Adopted Version June 1997

Core Strategy Development Plan Document March 2010

Supplementary Planning Document 3: Parking Provision for New Developments

Supplementary Planning Document 6 : Planning Obligations