

**Date:** Wednesday 10 April 2024 at 1.30 pm

**Venue:** Jim Cooke Conference Suite, Stockton Central Library, Stockton - on - Tees,  
TS18 1TU

**Cllr Mick Stoker (Chair)**

**Cllr Michelle Bendelow (Vice-Chair)**

Cllr Carol Clark

Cllr Lynn Hall

Cllr Shakeel Hussain

Cllr Tony Riordan

Cllr Norma Stephenson OBE

Cllr Sylvia Walmsley

Cllr Dan Fagan

Cllr Elsi Hampton

Cllr Eileen Johnson

Cllr Andrew Sherris

Cllr Jim Taylor

Cllr Barry Woodhouse

## **AGENDA**

- 1 Evacuation Procedure** (Pages 7 - 8)
- 2 Apologies for Absence**
- 3 Declarations of Interest**
- 4 Minutes of the meeting which was held on 6 March 2024** (Pages 9 - 24)
- 5 Planning Protocol** (Pages 25 - 26)
- 6 22/1525/EIS Land At Seal Sands, Billingham, Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations.** (Pages 27 - 66)
- 7 23/0888/OUT Land Off Stoney Wood Drive, Wynyard, TS22 5SN Outline application with all matters reserved for the erection of 2no dwellinghouses and detached garages.** (Pages 67 - 100)

- 8**      **23/2192/X Woodend Court, The Wynd, Wynyard**      (Pages 101 - 112)  
**Application to reduce height by 5m, prune side to shape and reduce limbs in by 2-3m to include removal of deadwood to 1no Oak tree (T3), 2no Sycamore trees (T5 and T7 of G1) and 1no Oak tree (T13 of G1), reduce height by 4m and prune sides to shape, reduce limbs in by 2-3m to include removal of deadwood to 3no Oak trees (T4, T11 and T15 of G1), fell 1no Larch tree (T12 of G1) and 1no Hawthorn tree (T14 of G1) and remove crown leaving the stem as a monolith at 6m to 1no Oak tree (T17 of G1) to tree preservation order 458 (00.8.5.455)**
- 9**      **Local enforcement plan – planning guidance**      (Pages 113 - 132)
- 10**      **Appeals**
1. Appeal - Merkur Slots Ltd (UK) - Ground Floor      (Pages 133 - 158)  
106 High Street, Stockton-on-Tees  
23/1308/VARY - DISMISSED
2. Appeal - Mr And Mrs Grub - 29 Carnoustie Drive  
Eaglescliffe, Stockton-on-Tees  
23/1125/COU - DISMISSED
3. Appeal - Rockwill Homes Ltd - Land At Hunters Rest  
Farm, Urlay Nook Road, Eaglescliffe, Stockton-On-Tees  
23/1451/FUL - DISMISSED
4. Appeal - Mr Peter Hodgson - Grove Stables  
Forest Lane, Kirklevington, Stockton-On-Tees  
23/0403/OUT - DISMISSED  
COSTS - REFUSED
5. Appeal - Mr J Fraser - 30 Durham Street  
Stockton-on-Tees  
23/0163/COU - ALLOWED WITH CONDITIONS  
COSTS - REFUSED

**Members of the Public - Rights to Attend Meeting**

With the exception of any item identified above as containing exempt or confidential information under the Local Government Act 1972 Section 100A(4), members of the public are entitled to attend this meeting and/or have access to the agenda papers.

Persons wishing to obtain any further information on this meeting, including the opportunities available for any member of the public to speak at the meeting; or for details of access to the meeting for disabled people, please

Contact: Sarah Whaley on email [sarah.whaley@stockton.gov.uk](mailto:sarah.whaley@stockton.gov.uk)

**KEY - Declarable interests are:-**

- Disclosable Pecuniary Interests (DPI's)
- Other Registerable Interests (ORI's)
- Non Registerable Interests (NRI's)

**Members – Declaration of Interest Guidance**



**Table 1 - Disclosable Pecuniary Interests**

| <b>Subject</b>   | <b>Description</b>   |
|--|--|
| <b>Employment, office, trade, profession or vocation</b> | Any employment, office, trade, profession or vocation carried on for profit or gain  |
| <b>Sponsorship</b>                                       | Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.<br>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.  |
| <b>Contracts</b>   | Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged.   |
| <b>Land and property</b>                                 | Any beneficial interest in land which is within the area of the council.<br>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.   |
| <b>Licences</b>  | Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.  |
| <b>Corporate tenancies</b>                               | Any tenancy where (to the councillor's knowledge)—<br>(a) the landlord is the council; and<br>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.  |
| <b>Securities</b>  | Any beneficial interest in securities* of a body where—<br>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and<br>(b) either—<br>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2 – Other Registerable Interest

You must register as an Other Registrable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

## **Jim Cooke Conference Suite, Stockton Central Library** **Evacuation Procedure & Housekeeping**

If the fire or bomb alarm should sound please exit by the nearest emergency exit. The Fire alarm is a continuous ring and the Bomb alarm is the same as the fire alarm however it is an intermittent ring.

If the Fire Alarm rings exit through the nearest available emergency exit and form up in Municipal Buildings Car Park.

The assembly point for everyone if the Bomb alarm is sounded is the car park at the rear of Splash on Church Road.

The emergency exits are located via the doors between the 2 projector screens. The key coded emergency exit door will automatically disengage when the alarm sounds.

The Toilets are located on the Ground floor corridor of Municipal Buildings next to the emergency exit. Both the ladies and gents toilets are located on the right hand side.

### **Microphones**

During the meeting, members of the Committee, and officers in attendance, will have access to a microphone. Please use the microphones, when directed to speak by the Chair, to ensure you are heard by the Committee.

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## PLANNING COMMITTEE

A meeting of Planning Committee was held on Wednesday 6 March 2024.

**Present:** Cllr Mick Stoker (Chair), Cllr Michelle Bendelow (Vice-Chair), Cllr Carol Clark, Cllr Dan Fagan, Cllr Jason French, Cllr Lynn Hall, Cllr Elsi Hampton, Cllr Eileen Johnson, Cllr Tony Riordan, Cllr Norma Stephenson OBE, Cllr Jim Taylor, Cllr Sylvia Walmsley and Cllr Barry Woodhouse.

**Officers:** Helen Boston, Simon Grundy (DoF,D&R), Stephanie Landles (DoA,H and W), Martin Parker (DoCS,E&C), Julie Butcher and Sarah Whaley (DoCS).

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

**Apologies:** Cllr Shakeel Hussain and Cllr Andrew Sherris.

**P/55/23 Evacuation Procedure**

The Evacuation Procedure was noted.

**P/56/23 Declarations of Interest**

There were no declarations of interest.

**P/57/23 Minutes of the Planning Committee meetings which were held on 10 January and 7 February 2024**

Consideration was given to the Planning Committee minutes from the meetings which were held on 10 January and 7 February for approval and signature.

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

**P/58/23 Planning Protocol**

The Planning Protocol was noted.

**P/59/23 22/1387/FUL Land At The South-East Corner Of Wynyard Business Park, Wynyard, Erection of mixed-use development to include Use Classes E, B2, B8 and Sui Generis and the provision of associated access, car parking, servicing areas, landscaping, enclosures, drainage and infrastructure.**

Consideration was given to planning application 22/1387/FUL, Land at the South East Corner of Wynyard Business Park , Wynyard.

Planning permission was sought for the erection of mixed-use development to include Use Classes E, B2, B8 and Sui Generis and the provision of associated access, car parking, servicing areas, landscaping, enclosures, drainage, and infrastructure.

The application site laid within an area designated in the Adopted Stockton Local Plan for general employment use. Policy EG1(c) identified 37ha of land at Wynyard as a high quality strategic inward investment location for office (B1 Use Class) manufacturing and engineering (B2 Use Class) and logistics use (B8 Use Class) providing opportunities for major employers to locate to the Tees Valley. The B2 and B8 uses were therefore considered to be compliant with the allocated use. However, the proposed supermarket, drive thru's and battery storage would be considered to be a departure from the Local Plan. It was this departure which required the application to be presented to planning committee.

The Wynyard Masterplan, adopted in November 2019, was prepared in support of Local Plan Policy H3 'Wynyard Sustainable Settlement'. Its purpose was to provide a comprehensive approach to the delivery of the Local Plan allocations in both Stockton and Hartlepool, guiding future development to deliver the vision for a sustainable settlement at Wynyard.

Whilst the site would result in a partial departure, it was of note that the site benefited from an extent permission in 2008 (08/0538/REM) for 97,135sqm of B1 space, 15,171 sqm of B8 space and 4, 644sqm B2 space. Whilst a lawful start was made the application had never progressed beyond its implementation.

The application had sought to demonstrate that the partial loss of employment land would not undermine the Local Plan aspirations to deliver high quality strategic inward investment opportunities for major employers to locate to the Tees Valley. Officers were satisfied that the provision of out of centre retail provision would not have a significant adverse impact upon existing centres.

Whilst not in strict accordance with the Local Plan and Masterplan it was considered that the proposed development would not undermine the Local Plan and would still have significant employment benefits to the Borough through the development of this site.

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.

The planning policies and material planning considerations that were relevant to the consideration of the application were contained within the main report.

The Planning Officers report concluded that in view of the considerations outlined within the Officers report, it was considered that there were no adverse impacts which significantly and demonstrably outweighed the benefits of granting planning permission in this case. Members were advised that as part of the application was a departure from the development plan it had been referred to the Secretary of State to decide whether to call the application in. It was therefore recommended that the Planning Committee be minded to approve the application for the reasons specified within the main report subject to a call-in by the Secretary of State and the section 106.

The Applicants Agent was in attendance at the meeting and given the opportunity to make representation. Their comments could be summarised as detailed below:

. Wynyard was a major location within the Councils Local Plan and in order to grow a sustainable settlement for residents, the proposed facilities were much needed

. The proposed development's location was adjacent to a business park, allowing for workers to make link trips for shopping before or after the working day

. In the longer term, as the development became established, there was capacity for more trips to take place on the local road network

. Although the application proposed battery storage, which was a departure from the Local Plan, there would be an opportunity for investment into renewable energy

. The development posed no adverse impacts and there had been no negative comments from local residents

Members were given the opportunity to ask questions / make comments. These could be summarised as follows: -

. Questions were raised relating to the Heads of Terms within the Officers recommendation which stated 'Off Site Biodiversity Gain' and what those plans would be

Officers were given the opportunity to respond to comments/issues raised. Their responses could be summarised as follows: -

. The application had been received prior to Biodiversity Net Gain, however policy ENV5 did require an uplift but did not specify exactly how much. The developer had submitted a scheme for off site gain which complied with policy ENV5 and would be secured via a S106 agreement.

A vote took place and Members confirmed they were minded to approve the application.

RESOLVED that Members be minded to approve planning application 22/1387/FUL subject to the following conditions and informatives and subject to the applicant entering into a Section 106 Agreement in accordance with the detailed Heads of Terms below and subject to call-in by the Secretary of State;

#### Time Limit

01 The development hereby permitted shall be begun before the expiration of Three years from the date of this permission.

#### Approved Plans

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

| Plan Reference Number | Date Received   |
|-----------------------|-----------------|
| 1952-99 F             | 30 January 2024 |
| 200652 PL-03AC        | 30 January 2024 |
| 200652 PL-07A         | 1 June 2023     |
| 200652 PL-08B         | 1 June 2023     |
| 200652 PL-11B         | 11 May 2023     |

|               |              |
|---------------|--------------|
| 200652 PL-12B | 11 May 2023  |
| 200652 PL-13J | 11 May 2023  |
| PL-06D        | 15 June 2022 |
| PL-03M        | 15 June 2022 |
| PL-04D        | 15 June 2022 |
| PL-05B        | 15 June 2022 |
| PL-11         | 15 June 2022 |
| PL-12A        | 15 June 2022 |
| PL-13E        | 15 June 2022 |
| PL-14         | 15 June 2022 |
| PL-15         | 15 June 2022 |

Use: Drive Thru

03 Notwithstanding the provisions of the Town and Country Planning Use Classes Order 2015 (as amended) (or any order revoking and re-enacting that order), the development (Drive Thrus) hereby approved shall be used specifically for Class E(b) and for no other use.

Use: Supermarket

04 Notwithstanding the provisions of Part 3, of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015 (or any order revoking and re-enacting that Order) the development (foodstore) hereby approved shall have a maximum net retail floor space (net sales area) of 2,787 sqm. In addition no more than 30% of the permitted retail floor area shall be used for the sale of comparison goods. For the purposes of this condition comparison goods are items not obtained on a frequent basis, including clothing, footwear, household and recreational goods.

Use B2/B8

05 Notwithstanding the provisions of the Town and Country Planning Use Classes Order 2015 (as amended) (or any order revoking and re-enacting that order), the development (commercial units – block C) hereby approved shall be used specifically for Class B2 and/or B8 and for no other use.

No subdivision/ amalgamation

06 The development hereby approved shall not be sub-divided into smaller unit or combined to form larger independent units without the prior written consent of Local Planning Authority and shall therefore be retained as such notwithstanding, the provisions of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order).

Travel Plan

07 No part of the development hereby approved shall be occupied unless and until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways or its successors). The Travel Plan shall be developed to accord with the principles set out in the Framework Travel Plan. The Detailed Travel Plan shall thereafter be implemented.

Construction Traffic Management Plan

08 Construction of no part of the development hereby approved shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Local Planning Authority (in consultation with National Highways or its successors). Construction of the development shall thereafter be carried out in accordance with the agreed Construction Traffic Management Plan.

#### Electric Vehicle Charging

09 Notwithstanding the submitted information, full details of the type, number and location of all electric charging points shall be submitted to and be agreed in writing with the Local Planning Authority. The charging points shall be provided prior in accordance with the agreed details and installed prior to any part of the development, hereby approved, becoming operational. Thereafter these shall be maintained for the lifetime of the development.

#### Construction Environment Management Plan

10 Prior to the commencement of the development hereby approved, a detailed site specific Construction Environmental Management Plan for each phase is to be submitted and agreed in writing by the Local Planning Authority. This shall include details of all proposed excavations, piling, construction, machinery used (including location) and associated mitigations should be submitted in accordance with BS 5228:1997. This should also include all measures to be undertaken to protect habitats and wildlife during the construction phase of the development identified in the submitted Ecological Impact Assessment Report (Received 15 June 2022) Once approved the CEMP Plan shall be adhered to throughout the construction period.

#### Contaminated Land Risk Assessment

11 No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- A site investigation scheme, based on the submitted desk top study (Ref: NT15280, March 2021) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

This must be conducted in accordance with DEFRA and the Environment Agencies "Land Contamination Risk Management" guidance (2020). Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

#### Unexpected Land Contamination

12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, works must be halted on that part of the site affected by the unexpected contamination and it must be reported in

writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority prior to resumption of the works. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted in writing and approval by the Local Planning Authority.

#### Construction Hours

13 No construction/building works or deliveries associated with the construction phase of the development shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 8.00am and 1.00pm on Saturdays. There shall be no construction activity (including demolition) outside of these hours or on Sundays or on Bank Holidays without the prior consent of the Local Planning Authority having first been obtained.

#### Discharge of Surface Water

The development hereby approved shall not be commenced on site, until a scheme for the implementation, maintenance and management of Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- i. A build program and timetable for the provision of the critical surface water drained infrastructure ;
- ii. A management plan detailing how surface water runoff from the site will be managed during the construction phase;

#### Discharge of Surface Water

14 The buildings hereby approved shall not be brought into use until:-

- I. Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building;
- II. A site-specific management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

#### Site Levels

15 Prior to the commencement of the development, details of the existing and proposed levels of the site including the finished floor levels of the buildings to be erected, cross sections and any earth retention measures (including calculations where such features support the adopted highway) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

#### Soil Management

16 Prior to the commencement of each phase of the development, no development shall be commenced until the Local Planning Authority has approved in writing the details of a soil management plan. The plan shall indicate how and where soils will be stripped, and their temporary storage during the works. Details shall describe the

height, width, length and location on site of all such mounding together with any temporary seeding.

#### Landscaping - Hardworks

17 No development shall commence until full details of proposed hard landscaping has been submitted to and approved in writing by the Local Planning Authority.

This shall include all external finishing materials, finished levels, and all construction details confirming materials, colours, finishes and fixings. The scheme shall be completed to the satisfaction of the Local Planning Authority and in accordance with the approved details within a period of 12 months from the date on which the development commenced or prior to the occupation of any part of the development. Any defects in materials or workmanship appearing within a period of 12 months from completion of the total development shall be made-good by the owner as soon as practicably possible.

#### Landscaping - Softworks

18 No development shall commence until full details of Soft Landscaping has been submitted to and approved in writing by the Local Planning Authority.

This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for tree pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans.

All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following:

Commencement of the development;

or agreed phases;

or prior to the occupation of any part of the development;

and the development shall not be brought into use until the scheme has been completed to the satisfaction of the Local Planning Authority.

#### Enclosure

19 Notwithstanding the proposals detailed in the Design and Access Statement/ submitted plans, (whichever is applicable) prior to the commencement of development, details of the enclosure shall be submitted to and approved in writing by the Local Planning Authority. Such means of enclosure shall be erected before the development hereby approved is occupied.

#### Scheme for Illumination

20 Prior to the commencement of development full details of the method of external LED illumination:

- Siting;
- Angle of alignment;
- Light colour; and
- Luminance of buildings facades and external areas of the site, including parking courts,

shall be submitted to and agreed in writing by the Local Planning Authority before development is commenced and the lighting shall be implemented wholly in accordance with the agreed scheme prior to occupation.

#### Soft Landscape Management and Maintenance

21 No development shall commence until full details of proposed soft landscape management has been submitted to and approved in writing by the Local Planning Authority.

The soft landscape management plan shall include, long term design objectives, management responsibilities and maintenance schedules, replacement programme for all landscape areas including retained vegetation, maintenance access routes to demonstrate operations can be undertaken from publicly accessible land, special measures relating to the time of year such as protected species and their habitat, management of trees within close proximity of private properties etc. This information shall be submitted to and approved in writing by the Local Planning Authority.

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 LPA 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.

Landscape maintenance shall be detailed for the initial 5year establishment from date of completion of the total scheme regardless of any phased development period followed by a long-term management plan for a period of 20 years. The landscape management plan shall be carried out as approved.

#### Protection of Highway

22 No development shall be commenced until the Local Planning Authority has approved in writing the details of arrangements for the protection of the adopted highway, from tree root damage where trees are planted within 2m.

#### Buffer Planting

23 Buffer planting to the eastern and south eastern boundary shall be planted early in the development works and protected for the duration of construction. Planting shall be undertaken prior to commencement, or in the first planting season after works have commenced on site to ensure early establishment of vegetation.

#### Energy Statement

24 The development hereby approved shall be built out in accordance with the recommendations as detailed within the Energy Statement as received by the Local Planning Authority on the 15 June 2022.

#### Ecology

25 The development hereby approved shall only be undertaken on site in accordance with the recommendations and mitigation as detailed within the submitted Ecological Impact Assessment Report (Received 15 June 2022)

#### INFORMATIVE OF REASON FOR PLANNING APPROVAL

LLFA: Information required to satisfy this condition

Detailed site-specific SuDS Management and Maintenance Plan which addresses all the information contained within the attached template.

NWL: Foul



We can inform you that a public foul sewer crosses the site and may be affected by the proposed development. Northumbrian Water does not permit a building over or close to our apparatus. We will work with the developer to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development. This is an informative only and does not materially affect the consideration of the planning application. Further information is available at <https://www.nwl.co.uk/services/developers/>

#### NWL: Discharge

Please note that the site lies within drainage area 11-D49. This drainage area discharges to Billingham Sewerage Treatment Works, which is named on the Nutrient Neutrality Budget Calculator

#### Northern Gas

There are specific building proximity distances for individual pipelines, which are dependent on pre-defined risk levels and the type of development. If your proposal includes the construction of buildings, it is essential you contact Kristian Ainsworth on telephone number 07773 545 806. Kristian is the pipeline technician.

#### Informative: Sabic

Should any work within 50 metres (notification zone as required by operators of Major Accident Hazard Pipelines) is to be carried out, as this would need approval from ourselves before any work is commenced.

#### Informative: Secure by Design

Prior to the commencement the developer is advised to contact the Crime Prevention & Architectural Liaison Officer to discuss how Secure by Design principles can be incorporated into the scheme.

#### HEADS OF TERMS

Off Site Biodiversity Gain

**P/60/23**

#### **23/0916/FUL 111 High Street, Yarm, Stockton-On-Tees Erection of a first floor rear extension.**

The Chairman of the Planning Committee agreed to hear the officers report, public representations and member debate in relation to items 23/0916/FUL and 23/0899/LBC, as one, as all items related to the same development.

The Planning Officer outlined planning application 23/0916/FUL 111 High Street Yarm, Stockton-On-Tees, Erection of a first floor rear extension, and 23/0899/LBC 111 High Street, Yarm, Stockton-On-Tees Listed building consent for the erection of a first floor rear extension to include internal alterations for the creation of a doorway.

The application site was a commercial mid terraced property used as a dentist. It was a three storey building with a grade II listed status situated within the Yarm Conservation area along the western section of the High Street.

Previously planning permission was granted for the erection of a single storey extension to the rear under applications 12/2565/LBC and 12/2564/COU.

The application sought to erect a first-floor rear extension to the existing dental practice and in order to meet the needs of the business and provide additional patient care. The extension would create a waiting area and single surgery room.

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.

The planning policies and material planning considerations that were relevant to the consideration of the application were contained within the main report.

In terms of planning application 23/0916/FUL, the Planning Officers report concluded that the proposed expansion of the existing business was supported in national and local policy terms, whilst as detailed within the main report the impacts of the extension were also not considered to significantly affect the character of the area (including conservation area), amenity of neighbouring occupiers or highway safety.

In assessing the impact on the significance of the heritage asset, the concerns of the Historic Buildings Officer were noted and although a degree of harm was considered to occur, this was 'less than significant'. In addition, the overall significance of the rear setting had already suffered from some harm as a result of the previous ground floor extension and the additional of the first-floor extension was considered to be minor and subservient.

In addition, the proposals in providing an existing dental practice the opportunity to grow and expand its services offered public benefit which was considered to weight in favour of the proposals. Thus, the identified 'less than substantial harm' on the heritage asset was outweighed.

In terms of planning application 23/0899/LBC, in assessing the impact on the significance of the heritage asset, it was ultimately a matter for the Local Planning Authority to consider the harm identified and weigh that against the benefits of the development.

The proposed extension would be located above a newly added ground floor extension and in terms of its architecture it would follow that of the existing extension. Whilst it is recognised that the extension would impact on a proportion of historic fabric of the building this would not fully obscure the full rear elevation of the building and the impact on the overall significance of the building was less than substantial.

The proposals in providing an existing dental practice the opportunity to grow and expand the services it offered, undoubtedly offered public benefit which was considered to weight in favour of the proposals and thus, the identified 'less than substantial harm' on the heritage asset was outweighed.

A representative for Yarm Town Council was in attendance at the meeting and given the opportunity to make representation. Their comments could be summarised as follows:

. Yarm Town Council opposed the application and requested that the item be deferred to a future meeting of the Planning Committee until a site visit had been undertaken

- . There would be loss of light and privacy for local residents
- . The proposed extension would be out of character to the local area
- . Concerns were raised relating to the storage of clinical waste
- . Access to the site by staff and visitors using Holmedene would increase foot traffic.
- . The proposed extension contravened the Councils Local Plan
- . Yarm's Wynds and Courtyards were a unique feature and needed to be protected
- . There was no shortage of private dentists, only NHS dentists
- . The application did not improve the local economy.

Members were given the opportunity to ask questions / make comments. These could be summarised as follows: -

- . Confirmation was sought that there would be no excessive overlooking and that the plans were reasonable in terms of planning law.

Officers were given the opportunity to respond to comments/issues raised. Their responses could be summarised as follows: -

- . Officers explained that the original application would have had a greater impact on local residents, however amendments were made which pulled back the extension and the impact had been reduced and was not significant to warrant refusal.

A vote then took place for each application separately and both applications were approved as follows:

RESOLVED that planning application 23/0916/FUL be approved subject to the following conditions and informatives below;

Time Limit

01

The development hereby permitted shall be begun before the expiration of Three years from the date of this permission.

Approved Plans

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

Plan Reference Number

2097-23-100 REV B

2097-23-101 REV C

Date Received

18 May 2023 Page 99

28 July 2023

03 Construction Hours

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

#### 04 Details of proposed external materials

Notwithstanding the submitted information details of all external finishing materials including samples (as appropriate) shall first be approved in writing with the Local Planning Authority prior to that element of the works been installed at site.

#### INFORMATIVE OF REASON FOR PLANNING APPROVAL

##### Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

##### Informative: Smoke Control

As the property is within a smoke control area the occupant is to comply with the following:

- Only burn authorised fuels- a list of these can be found on the following link <http://smokecontrol.defra.gov.uk/fuels.php?country=e>

- Certain types of coal and wood can be burnt in smoke control areas but these are only to be burnt on DEFRA approved appliances; a list of these can be found on the following link <http://smokecontrol.defra.gov.uk/appliances.php?country=e>

- The appliance is to be installed by an approved contractor and certificates of the work to be submitted to the Local Authority.

**P/61/23 23/0899/LBC 111 High Street, Yarm, Stockton-On-Tees Listed building consent for the erection of a first floor rear extension to include internal alterations for the creation of a doorway.**

For the discussion of this item please see above.

RESOLVED that planning application 23/0899/LBC be approved subject to the following conditions and informative;

##### 01 Time Limit

The development hereby permitted shall be begun before the expiration of Three years from the date of this permission.

##### 02 Approved Plans

The development hereby approved shall be in accordance with the following approved plan(s); Page 121

Plan Reference Number

2097-23-100 REV B

2097-23-101 REV C

Date Received

18 May 2023

28 July 2023

##### 03 Works of making good

All new external and internal works and finishes and works of making good shall match the existing original work adjacent in respect of materials used, detailed execution, and finished appearance except where indicated otherwise on the drawings hereby approved or otherwise agreed in writing with the Local Planning authority.

#### 04 Details of proposed external materials

Notwithstanding the submitted information details of all external finishing materials including samples (as appropriate) shall first be approved in writing with the Local Planning Authority prior to that element of the works been installed at site.

#### INFORMATIVE OF REASON FOR PLANNING APPROVAL

##### Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

**P/62/23 23/1622/LA St Michaels Catholic Academy, Beamish Road, Billingham  
Application for the construction of an all weather pitch with associated  
hardstanding, 4.5m high fence and lighting**

Consideration was given to planning application 23/1622/LA St Michaels Catholic Academy, Beamish Road Billingham.

The application related to St Michaels Catholic Academy, which was a secondary school located on Beamish Road within the defined development limits of Billingham, and approximately 1km north east of Billingham Town Centre.

The application was seeking planning permission for the construction of an all-weather sports pitch which would feature an associated hardstanding area, floodlighting and a 4.5 metre high perimeter fence. The all-weather pitch would be located to the south west of the existing school buildings on an existing playing field.

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.

The planning policies and material planning considerations that were relevant to the consideration of the application were contained within the main report.

The Planning Officers report concluded that the application be approved with Conditions for the reasons as specified within the main report.

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

. A local resident whose property backed on to the proposed site raised concerns relating to the proposed flood lights shining into his children's bedroom.

. Concerns were raised relating to current drainage issues from the new school, and that the proposed development could exacerbate that.

. Parking issues were highlighted particularly around school drop off and pick up time

- . The proposed development should be moved behind the school
- . Light pollution would impact everyone on Beamish Road
- . There were other similar sites which had the facilities to offer after school evening sports in Billingham

Officers were given the opportunity to respond to comments/issues raised. Their responses could be summarised as follows: -

- . In terms of the floodlights, there had been time restrictions on the lighting conditioned, which was appropriate for its use as the facility was a school only facility, not a community facility, otherwise an alternative scheme would have been looked at.

Members were given the opportunity to ask questions / make comments. These could be summarised as follows: -

- . In terms of light pollution, similar concerns were raised from local residents when Stockton Football Club made improvements / alterations to their facilities. Once residents' concerns were understood, the club agreed to move the lights and resolved residents issues.

- . Clarity was sought regards the separation distance from the rear of the houses to the proposed football pitch

- . Parking was a real issue in the area

- . Residents of Billingham required reassurance that enforcement would uphold the lighting time restrictions

Officers were given the opportunity to respond to comments/issues raised. Their responses could be summarised as follows: -

- . The distance from the rear of the houses to the football pitch was in excess of 70 metres

- . In terms of concerns around light pollution, there was shielding in place planned, therefore if readjustments were needed to be made then this could be achieved and the School were aware of that

- . If the school were in breach of lighting restrictions, they would be spoken to and should that not be acted on enforcement would follow

- . Members were advised that the use of the pitch was for the school and associated school uses only, not a community use, resolving concerns about traffic impact and hours of use with regards to flood lights.

A vote took place and the application was approved

RESOLVED that planning application 23/1622/LA be approved subject to the following conditions and informatives;

Time Limit

01

The development hereby permitted shall be begun before the expiration of Three years from the date of this permission.

#### Approved Plans

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

| Plan Reference Number | Date Received   |
|-----------------------|-----------------|
| NSSMCAA009 REV F      | 26 October 2023 |
| NSSMCAA006            | 25 August 2023  |
| HLS5906               | 30 August 2023  |
| NSSMCAA005            | 30 August 2023  |
| E01                   | 25 August 2023  |
| NSSMCAA007            | 25 August 2023  |
| NSSMCAA003            | 25 August 2023  |
| NSSMCAA004            | 25 August 2023  |

#### Floodlighting

02

The floodlighting shall be restricted to the hours of 08:00-19:00 Monday to Saturday and 10:00-16:00Hrs Sunday and they shall be angled away from any residential premises to prevent light disturbances.

#### Surface Water Drainage

04 The development hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details:

- Detailed design of the surface water management system

#### Construction Management Plan

05 Within each phase, no development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The Construction Management Plan shall provide details of:

- the site construction access(es)
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials including any restrictions on delivery times;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing,
- measures to be taken, including but not limited to wheel washing facilities and the use of mechanical road sweepers operating at regular intervals or as and when

necessary, to avoid the deposit of mud, grit and dirt on the public highway by vehicles travelling to and from the site;

- measures to control and monitor the emission of dust and dirt during construction;
- a Site Waste Management Plan;
- details of the HGVs routing including any measures necessary to minimise the impact on other road users;
- measures to protect existing footpaths and verges; and
- a means of communication with local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period.

#### 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.

##### Informative: Surface Water

The surface water discharge rate from this development must not exceed 5 l/s.



## **Planning Committee Procedure**

1. Officers present the report to Members
2. Members of the public, applicants and agents speak for/against the application, 3 minutes each
3. Officers respond to any queries/misinformation which may have been raised as a result of public speaking
4. Members discuss the application in general and seek clarification from Officers/agents if necessary
5. Officers respond to any points raised by Members and give a brief summary of the proposal in view of comments raised
6. If it looks as if the application may go contrary to officer recommendation, Members debate and propose the possible reasons for the decision and the lead planning and legal representatives and other officers will advise which reasons are acceptable or not. Members respond on whether they wish to vary the reasons accordingly
7. Following the discussion, Members will be asked to confirm and then agree the reasons upon which they will rely if they vote for refusal of the application
8. Members vote on the officer recommendation or any alternative motion successfully carried
9. If the decision taken is contrary to officer recommendation, the Planning Officer, and Legal Representative are given the appropriate amount of time to discuss whether the protocol for decisions contrary to officer recommendation should be invoked and that the committee and members of the public be informed of the outcome of that decision
10. The next application is then debated

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**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**10 April 2024**

**REPORT FOR ASSISTANT DIRECTOR OF  
INCLUSIVE GROWTH AND DEVELOPMENT**

**22/1525/EIS**

**Land At Seal Sands, Billingham,**

**Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations.**

**Expiry Date: 12 April 2024**

### **SUMMARY**

Planning permission is sought for the erection of an energy recovery facility and associated infrastructure on Land at Seal Sands.

Permission was given for the erection of a 24MW energy facility including gasification technology on the 29th April 2013 (Application 12/2766/EIS). Work has commenced on site and the permission is therefore extant. The extant consent would process 175,000 tonnes of refuse derived fuel (RDF) annually to operate. The proposed development would require up to 240,000 tonnes of RDF annually to operate.

Neighbours were notified and no objections were received, however 10 objections have been lodged from interested parties outside of the Borough. No objections have been received from statutory consultees. The objections have been considered and there are no sustainable planning reasons to refuse the application.

National and Local Policy documents and guidance have been reviewed and it is considered that the proposed development will assist in meeting the urgent need for renewable, sustainable, low carbon energy generation together with moving waste up the waste hierarchy and obtaining value from waste that would otherwise be exported for use or landfilled. In terms of social and economic benefits the development will create a significant investment with a value of over £500m, up to 200 jobs in the construction phase and up to 35 total full-time equivalent permanent jobs directly employed.

All other matters have been reviewed and with the imposition of conditions it is not considered that the proposed development will have an adverse impact sufficient to warrant refusal of the application and the proposed scheme is recommended for approval with conditions.

### **RECOMMENDATION**

**That Members be minded to approve planning application 22/1525/EIS subject to the following conditions and informatives and the final decision be delegated to the Planning Services Manager once agreement from Natural England be secured for the Appropriate Assessment.**

#### **01 Time Limit**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: By virtue of the provision of Section 91 of the Town and Country Planning Act 1990 (as amended).

## **02 Approved Plans**

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

| Plan Reference Number | Date Received |
|-----------------------|---------------|
| SLR/SS/07-22/23249    | 26 March 2023 |
| 1019 D2 000 C01 Rev O | 26 March 2023 |
| 1019 D2 001 C01 Rev O | 26 March 2023 |
| 1019 D2 002 C01 Rev O | 26 March 2023 |
| 1019 D2 005 C01 Rev O | 26 March 2023 |
| 1019 D2 007 C01 Rev O | 26 March 2023 |
| 1019 D2 091 C01 Rev O | 26 March 2023 |
| 1019 D2 092 C01 Rev O | 26 March 2023 |
| 1019 D2 093 C01 Rev O | 26 March 2023 |
| 1019 D2 094 C01 Rev O | 26 March 2023 |

Reason: To define the consent.

## **03 Waste Quantities**

The types of waste to be combusted for the recovery of energy in the Energy Recovery Facility hereby approved shall be refuse derived fuel only, and the quantities shall not exceed 240,000 tonnes per annum.

Reason: To define the permission for the avoidance of doubt and in the interests of protecting local amenities

## **04 Details of the buildings/structures**

Prior to above ground construction full details including finished floor levels of all buildings and structures shall be submitted and agreed in writing with the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved plans.

Reason: To achieve a satisfactory form of development

## **05 Means of Illumination**

All external lighting will be designed to point downwards to minimise light spill. Outside of the delivery hours the external lighting will be turned off other than low level lighting on walking routes or in staff car parks.

Reason: In the interests of visual amenity highway safety and protection of sensitive wildlife habitats.

## **06 Ecology and Mitigation**

The development hereby approved shall only be undertaken on site in accordance with the recommendations and mitigation as detailed in section 6 of the submitted Ecological Impact Assessment dated July 2022 (Appendix ES6.1).

Reason: In order to adequately protect ecology and biodiversity in accordance with the principles of Policy ENV5 and the National Planning Policy Framework.

## **07 Construction Environmental Management Plan**

No part of the development hereby approved shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning

Authority. The CEMP shall set out, as a minimum, site specific measures to control and monitor impact arising in relation to noise and vibration, dust and air pollutants, land contamination and ecology. It shall also set out arrangements by which the developer shall maintain communication with businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. The development shall be carried out in full accordance with the approved CEMP at all times.

Reason: In the interests of protecting the environment.

### **08 Ecology Survey**

A maximum of three months before works commence on site a suitably qualified ecologist shall undertake an update survey to ensure that no protected species or their habitat are present on site. The results of the survey shall be submitted and approved in writing by the local planning authority and identify any additional or revised mitigation measures required

Reason: To conserve protected species and their habitat where necessary

### **09 Habitat and wildlife**

Prior to removal of the vegetation on site including scrub, the vegetation should be assessed for the presence of protected species, some of which are subject to season-specific legislation. Any works should be planned so as to limit their potential adverse impact on wildlife generally. The timing of works should take account of the seasonal cycles of the species of fauna and flora concerned (including the nesting habits of birds and the egg-laying habits of insects).

Reason: In compliance with the Habitat Regulations and Countryside and Wildlife Act.

### **10 Habitat and landscaping plan.**

Notwithstanding the submitted plans, prior to the commencement of the new development hereby permitted (excluding demolition works) a habitat and landscaping plan shall be submitted for approval in writing by the Local Planning Authority. The habitat and landscaping plan must contain, information about the steps that will be taken to minimise any adverse effect of the development on the biodiversity of the onsite habitat and provide details on habitat creation and landscaping. The works shall be implemented in accordance with the agreed details and any phasing programme. Such measures shall be retained thereafter for the lifetime of the development.

Reason: To preserve, protect and enhance the biodiversity of the site in accordance with Local Plan Policy ENV5 and the NPPF

### **11 Teesmouth and Cleveland Coast SSSI**

As detailed in the submitted Technical Note (ref APS\_P1124E\_B1-2) published 15 March 2024 the technology used in the proposed facility shall achieve an NH3 Emission Limit Value of no greater than 3mg/Nm<sup>3</sup>.

Reason: In the interests of preventing any potential impacts on the Teesmouth and Cleveland Coast SSSI

### **12 Storage**

There shall be no open storage on site of skips, waste materials or materials awaiting disposal.

Reason: In the interests of protecting neighbouring businesses / protected sites from the potential adverse impact of the development hereby approved

### **13 Emergency plan**

The development hereby permitted shall not be brought into operation until an emergency plan, including scheme for emergency evacuation has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained, in

accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the impact of an emergency situation on people on and surrounding the site and ensure they remain safe during events.

#### **14 Travel Plan**

Within six months of the first use or occupation of any part of the development hereby approved, the travel plan shall be prepared based on the framework travel plan presented at Appendix ES11.2 of the application and the results of the initial travel plan surveys. The travel plan shall be submitted to and approved in writing by the local planning authority and implemented as approved unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of reducing the traffic impact of the development on strategic and local highway network

#### **15 Construction Traffic Management Plan**

Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted and agreed in writing with the Local Planning Authority and shall provide details of the routing of all HGVs movements associated with the construction phases and to effectively control dust emissions from the site works, this shall address earth moving activities, control and treatment of stock piles, parking for use during construction and measures to protect any existing footpaths and verges, vehicle movements, wheel cleaning, sheeting of vehicles, offsite dust/odour monitoring and communication with local residents. Work shall be undertaken in accordance with the agreed details.

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

#### **16 Energy Efficiency**

Prior to the erection of any buildings, an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall identify the predicted energy consumption, the associated CO2 emissions and how the energy hierarchy has been applied to the development, including an investigation into the feasibility and viability of connection to decentralised energy networks for heat and power). The statement shall set out the feasibility and viability of achieving a minimum 10% reduction in CO2 emissions from the development, over and above current Building Regulations Part L requirements, or a minimum of 10% of the total predicted energy requirements of the development will be generated from renewable energy sources. Development shall be carried out thereafter in a manner that incorporates any feasible and viable measures identified.

Reason: Reason: In the interests of promoting sustainable development in accordance with the requirements of Local Plan Policies ENV1 and ENV3.

#### **17 Discharge of Surface Water**

The development hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- I. Detailed design of the surface water management system; (for each phase of the development).
- II. A build programme and timetable for the provision of the critical surface water drainage infrastructure;
- III. A management plan detailing how surface water runoff from the site will be managed during the construction phase;

Reason: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the Local Plan Policies SD5 & ENV4 and the National Planning Policy Framework.

### **18 Management of Surface Water**

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) SLR/SS/JJW/20056/01/V3a dated September 2023.

The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

### **19 Recording of a heritage asset through a programme of archaeological works**

A) No construction shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

B) No construction shall take place other than in accordance with the Written Scheme of Investigation approved under part (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of archaeology and recording.

### **20 Contaminated Land Risk Assessment**

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site, have been submitted and approved in writing, by the local planning authority:

- a) A site investigation scheme, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should be approved before a remediation strategy is submitted.
- b) The results of the site investigation and detailed risk assessment referred to in (a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

This must be undertaken in accordance with the Environment Agencies "Land Contamination Risk Management" Guidance (2020). Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure there is no unacceptable risk from or being adversely affected by unacceptable levels of water and land pollution.

## **21 Employment and Training**

The development hereby approved shall not commence until a Training and Employment Management Plan, has been submitted to and approved in writing by the Local Planning Authority. The plan will aim to promote training and employment opportunities at all stages of the development for local people and include:

- o Measures to ensure the owner and contractors work directly with local employment and training agencies;
- o Targets for employing local labour
- o Details of how services and materials used in the development are provided by Businesses within the Target Areas
- o Reasonable steps to procure that any contractor and / or subcontractor nominate an individual to liaise with the Principal Employability Officer.
- o Targets for work experience opportunities
- o Measures to provide training opportunities in respect of any new jobs created
- o Requirements to submit monitoring information on the plan at regular intervals to the Local Planning Authority

The development shall be carried out in accordance with the agreed plan and any amendments to the plan shall be agreed in writing with the local planning authority.

Reason: In accordance with the requirements of local plan policy SD4.

## **INFORMATIVE OF REASON FOR PLANNING APPROVAL**

### **Informative: Working Practices**

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by gaining additional information required to assess the scheme and by the identification and imposition of appropriate planning conditions.

### **Environment Agency Informative**

Environmental Permit Regulations The proposed Energy Recovery Facility (incinerator) will require an Environmental Permit under Schedule 5.1 Part A (1) (b) of the Environmental Permitting Regulations (England and Wales) 2016 from the Environment Agency. We will consider the following areas of potential harm when assessing the permit:

- Management - including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes,
- Operations - including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design,
- Emissions - to surface water, sewer, air, odour, noise and vibration, monitoring and reporting of emissions.

Whilst we are the competent authority in England for determining R1 applications, we do not require incinerators to have R1 status in order for us to issue a permit. If a requirement for R1 exists, this will be driven by national or local planning policies in order to move the proposed development up the waste hierarchy (from a disposal to a recovery operation).

It is recommended that the applicant considers the implementation of the following features for their site design - Use of low-carbon cement; Solar Panels; Ground-source heating; Use of Electric Vehicles

Furthermore, it is recommended that the following Climate Mitigation plans are considered for the development: Flood risk; Extreme weather events; Wind/Storms; Droughts and Pandemics

Receiving pre-application advice will help the Applicant submit a good quality application that can be processed (determined) smoothly and quickly. If the Applicant wishes to request either basic



(free), or enhanced (chargeable) pre-application advice, they should complete the pre-application advice form.

**Best Available Techniques** - The latest Waste Incineration Best Available Techniques Reference (BREF) document and inclusive BAT Conclusions (BATC's) were published in 2019, and the BREF interpretation document in 2021. Therefore, the permit for the proposed development will be written with the latest BATC's and revised emission limits, which the development will need to comply with from the date of permit issue.

**Ash** - Ash is an incineration plant residue which is produced in the furnace or collected in the gas cleaning plant. The permit will prevent these two types of ash being mixed and will contain conditions to ensure that there are no significant emissions from the site from the handling or treatment of the ash. When ash is sent for disposal or recovery, other waste legislation will apply and the operator will be responsible for using a registered waste carrier to transport the material to an appropriately licensed facility. During the permit's lifetime, we will routinely assess the operator's compliance with this 'duty of care'.

**Combined Heat and Power** - We require all new proposed incineration facilities to be built Combined Heat and Power (CHP)-ready by imposing specific permit conditions. Environmental permit applications for these types of plants will therefore need to include a Best Available Technique (BAT) assessment for CHP-readiness. Permits for these plants are also likely to contain conditions that state opportunities to realise CHP should be reviewed from time to time. These opportunities may be created by building new heat loads near the plant, or be due to changes in policy and financial incentives that make it more economically viable for the plant to be CHP.

## **BACKGROUND**

1. Planning permission was approved on the 29th April 2013 for the erection of a 24MW energy facility including gasification technology, associated infrastructure for materials handling and storage, power generation, power export, fuel receipt, process emissions control, maintenance, offices and car parking, including a new access point (demolition and site clearance of existing building) (Application 12/2766/EIS). Work commenced on site and the permission is extant.
2. The extant consent would process 175,000 tonnes of refuse derived fuel (RDF) annually to operate. The proposed development would require up to 240,000 tonnes of RDF annually to operate.

## **SITE AND SURROUNDINGS**

3. The application site is approximately 3.7 hectares, located in Seal Sands on a plot to the north of Seal Sands Road. KD Pharma is located to the southeast and Lianhetech is located to the east of the site.
4. The site is rectangular in shape and comprises an area of concrete in the south and a small pond, scrub, bare ground, grassland and marshy ground in the north. Vehicular access to the site is via Seal Sands Road.
5. The surrounding area generally comprises chemical works, petrochemical facilities and oil refineries and associated infrastructure together with areas of undeveloped land. Undeveloped areas of Seal Sands and the adjacent mudflats and sandflats associated with the Tees estuary are nationally and internationally important wildlife sites.

## **PROPOSAL**

6. Planning permission is sought for the erection of an energy recovery facility and associated infrastructure. The facility will have an installed electricity generation capacity of approximately 30MW with approximately 2MW of the electricity generated by the facility used in its operation. The facility will operate using approximately 240,000 tonnes of refuse derived fuel per annum.

7. The main elements of the proposed development include a fuel reception and tipping hall; fuel storage bunker and building; boiler hall; steam turbine; control room; stack; flue gas treatment (FGT) facility; bottom ash bunker; air cooled condensers; and staff facilities and offices. The buildings and the air-cooled condenser area will all be clad in trapezoidal profiled metal cladding in Goosewing grey (RAL 7039). There are a number of areas for associated plant. The associated plant and infrastructure will all be less than 35m high. The boiler hall will be up to 41m high and the stack will be up to 85m high
8. The development will be designed as Combined Heat and Power ready and discussions with local sites regarding the potential for the provision of heat and/or steam are ongoing. The development will also include ancillary infrastructures such as site fencing gates, surface water drainage and attenuation features, internal access roads and car parking, fire water storage, water treatment plant and areas of hard and soft landscaping. A new grid connection will be necessary to export electricity offsite.
9. Due to the constraints of the size of the site there is limited potential for landscaping, however a habitat and landscaping plan will be incorporated into the Construction Environmental Management Plan so that habitats and planting are provided where possible.

#### **Environmental Controls**

10. In addition to any planning conditions, the impacts of site operations, restoration and any resultant emissions to air, water, land and impacts on the environment would be a matter of control for the Environment Agency through the Environmental Permitting Regulations (EPR). Controls should not be duplicated.

#### **Accompanying Documents**

11. The development is the type of proposal that requires a formal Environment Impact Assessment in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Accordingly, an Environmental Impact Statement (EIS) accompanies the application. Any specialist EIA reports are summarised.
12. Guidance states that monitoring arrangements under other regulatory regimes may be used if appropriate to monitor environmental impacts, with a view to avoiding duplication. In all cases, authorities should ensure that all measures are proportionate to the nature, location and size of the relevant project and its effects on the environment. As this will require a permit a number of controls will be secured through the permitting process.

#### **CONSULTATIONS**

13. Consultees were notified and the following comments were received.
14. Highways Transport & Design Manager  
Highways Comments - The applicant has submitted various site layout plans and a transport statement (TS) in support of the proposals. The TS sets out that the site currently benefits from an extant planning consent (12/2766/EIS) granted in 2013 for a '24MW energy facility including gasification technology, associated infrastructure for materials handling and storage, power generation, power export, fuel receipt, process emissions control, maintenance, offices and car parking, including a new access point (demolition and site clearance of existing buildings) associated with the site'. The extant proposals were predicted to employ 40 FTE staff working a 2-shift system with an operational day shift working between 07:00 and 19:00, and a night shift between 19:00 and 07:00. The current proposals would have 34 FTE members of staff working the same shift patterns. It is therefore considered that the current proposals would result in a marginal reduction in traffic generation, when compared to the extant permission, and as such there would be no highways objections.  
Landscape & Visual Comments - The applicant seeks consent for an Energy recovery facility on the site at Seal Sands. Consent was previously given for a similar development in 2012. It

is noted that 2 no. 35 m high chimney stacks were originally consented with a maximum building height of 26m, the current application seeks consent for a maximum building height of 40.3m and a tower height of 85m. Whilst there is a difference in the scale of the proposals, the development is located at the heart of the industrial areas of Seal Sands and will still be viewed against a backdrop of other existing industrial infrastructure, buildings and towers. The visual change from the current baseline would be notable, but is unlikely to be significant, and therefore there are no landscape and visual objections to this development. Flood Risk Management - The applicant has provided sufficient information to satisfy the Local Lead Flood Authority that a surface water runoff solution can be achieved without increasing existing flood risk to the site or the surrounding area. However the applicant has not provided a detailed design for the management of surface water runoff from the proposed development and this information should be secured by condition.

15. Environmental Health Unit

I have checked the Environmental Impact Assessment and associated documents, which identifies all of the potential impacts on human and environmental receptors in accordance with Regulation 2(1) and Schedule 4.

I am satisfied that the Noise Report submitted (30th June 2022) shows there will be no impact from the operation of the site due to the distance of nearby receptors. I am satisfied that the noise impact during the construction phase can be addressed by submission of a Construction Management Plan. I have the following additional comments.

Air Quality: I note the air quality assessments and associated documents to assess the air quality impact of the proposed facility during construction and operational phases on human health. This has been assessed against the IAQM (2007) Industrial Emissions Directive respectively. A specific air quality assessment report will be produced to support the permit application to the Environment Agency. In response to your Technical Note (Ref P1124B\_B2-2, March 2023) regarding the above air quality assessment for the above development and further information requested. I note that an air emission risk assessment (AERA) will be submitted to the Environment Agency (EA) to support the permit application following the EA's methodology and requirements. I accept that the road traffic impacts have been screened out (500 LDV AADT and 100 HDV movements per day) following relevant guidance (EPUK/IAQM, 2017), and the focus of the assessment is on the emissions from the stacks. The additional information nevertheless confirms that the traffic generated from the proposed facility is considered to be insignificant during the operational phase, and the impact from traffic generated emission to be non-negligible. As mentioned in the response, I attach a copy of the Annual Status Report (2022) for your information should you require it. I therefore have no objection to approval of the air quality assessment for this development. I have reviewed the attached technical report to address the points raised in my previous correspondence regarding the air quality assessment. The conclusion of the air quality baseline conditions report is accepted as providing representative conditions of the site. I am also satisfied that traffic generated from the proposed facility is considered insignificant. The traffic generated from the Proposed Facility is not expected to contribute more than 0.4  $\mu\text{g}/\text{m}^3$  for NO<sub>2</sub> and PM<sub>10</sub> and 0.25  $\mu\text{g}/\text{m}^3$  for PM<sub>2.5</sub>. This does not require further actions following the IAQM/EPUK guidance.

Contaminated Land: I have assessed the information submitted (Chpt 13 and 14 of the Environmental Impact Statement) with respect to the contaminated land assessment at the above site. This comprises a Desk Study and review of a site investigation carried out in 2001, which showed groundwater exceedances in concentrations of chromium, VOC's and other metals. I would agree that a ground investigation to assess ground conditions should be undertaken to confirm the results and outline a remediation plan in accordance with current guidance. I would recommend the scope of work for the site investigation is agreed prior to the work being undertaken. I would recommend a condition is imposed.

16. Northumbrian Water Limited

In making our response to the local planning authority Northumbrian Water assesses the impact of the proposed development on our assets and assesses the capacity within our network to accommodate and treat the anticipated flows arising from the development. We do not offer comment on aspects of planning applications that are outside of our area of control. It should also be noted that, following the transfer of private drains and sewers in 2011, there may be assets that are the responsibility of Northumbrian Water that are not yet included on our records. Care should therefore be taken prior and during any construction work with consideration to the presence of sewers on site. Should you require further information, please visit <https://www.nwl.co.uk/services/developers/> I can confirm that at this stage we would have no comments to make, as no connections to the public sewerage network are proposed in the application documents. Should the drainage proposal change for this application, we request re-consultation.

17. Natural England (Summarised)

Water Quality – Nutrient impacts are possible (conclusion: LSE). Mitigation proposed: process-related waste to be tinkered to an out of catchment treatment facility (NE would agree with an AA conclusion of No AEOSI).

Construction impacts – disturbance and or pollution possible (conclusion: LSE). Mitigation proposed: Agreement of a CEMP (NE would agree with an AA conclusion of No AEOSI).

Based on the updated air quality assessment, the applicant has demonstrated that it is possible for the proposed development to be designed such that its emissions will not result in a nutrient nitrogen deposition on the most sensitive features of the SSSI (sand dunes) of greater than 1% of the relevant critical load. As such, if a design consistent with this approach was made a condition of the proposed development, Natural England would have no further concerns regarding impacts to the SSSI from the project alone. We note that the applicant has set out how they have assessed the impacts from this application in combination with other plans and projects in previous communications. Natural England's advice on in-combination assessments for air quality impacts is set out in detail in Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations - NEA001. In particular, we advise the Competent Authorities should use their professional judgement to ensure that all relevant plans or projects have been included. If you are satisfied that this has been undertaken correctly, Natural England has no further comments.

18. Tees Archaeology

Thank you for the consultation on this application. The proposed development site situated on 3 to 4 meters of made ground, and for the most part is likely to be archaeologically sterile. However, we note that the fuel bunker is to be stored up to 6 meters below ground level, which is likely to penetrate into the deposits of the former estuary and may reveal organic deposits such as peats or features such as gravel terraces or palaeo-channels which would be of archaeological interest. We have no objection to the development in principle, but, as with application 12/2766/EIS, would ask that an archaeological condition is placed on the development, and suggest the following scheme of works:

- 1) Examination of geotechnical information to establish stratigraphy and presence or absence of organic layers or other sediments of archaeological interest.
- 2) No further action or palaeo-environmental work/archaeological monitoring during development

The proposed wording of the archaeological condition is provided

19. Highway England

National Highways wish to offer no objection to this proposed development.

20. The Environment Agency

We have no objections to this application. However, we would like to draw the applicant's attention to informatives (see Informative recommendations for info)

21. Cleveland Police  
Should the developer wish to get in touch we would be happy to provide them with free advice and guidance with regard to security, including fence types, lighting, CCTV and Intruder alarms.
22. National Planning Casework Unit  
I confirm that we have no comments to make on the environmental statement.
23. Cleveland Emergency Planning Unit  
Based on the information provided I can see no specific issues with the project given it is already in a heavily industrialised with multiple upper tier COMAH establishments however there are a few comments that I feel are relevant:
1. Construction - During construction provision would need to be made to ensure a method of quick notification to the workers onsite in the event of a nearby chemical release. Additionally, all workers would need to be able to access a toxic refuge at short notice if required.
  2. COMAH - It would be beneficial to understand if the site itself will be storing high enough quantities to bring them into COMAH (either as a lower tier or upper tier establishment). As this would then have potential implications from a domino perspective with neighbouring COMAH establishments.
  3. Access - Seal Sands has limited access which has the potential to block at times, if the site works on just in time supplies for continued function it would be worthwhile considering the need for a certain level of redundancy.
  4. Consultees - I notice the list of consultees for neighbours is significantly out of date with some having not existed for a number of years and others having changed names multiple times therefore I would suggest that all those residents on seal sands have indeed been consulted. Additionally, there are a number of pipeline operators who are missed off the list, likely because they do not have a site / address for Seal Sands, it is recommended that they are contacted as well.
24. Marine Management Organisation  
Please be aware that any works within the Marine area require a licence from the Marine Management Organisation. It is down to the applicant themselves to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark. If the applicant determines that a marine licence may be required, it is up to them to go through the process of applying for a marine licence. <https://www.gov.uk/guidance/make-a-marine-licence-application> Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence. If this process is not completed enabling the MMO to consult on the project, and it is determined at a later date that a marine licence is required, the applicant may be subject to enforcement action.
25. Chief Fire Officer (Cleveland Fire Brigade)  
Cleveland fire Brigade offers no representations regarding the development as proposed. However, Access and Water Supplies should meet the requirements as set out in: Approved Document B Volume 2: 2019, Section B5, for buildings other than Dwellings. It should be noted that Cleveland Fire Brigade now utilise a Magirus Multistar Combined Aerial Rescue Pump (CARP) which has a vehicle weight of 17.5 tonnes. This is greater than the specified weight in AD B Vol 2 Section B5 Table 15.2. It should be confirmed that 'shared driveways' and 'emergency turning head' areas meet the minimum carrying capacity requirements as per ADB Vol 1, Section B5: Table 13.1, and in line with the advice provided

regarding the CARP, above. Further comments may be made through the building regulation consultation process as required.

26. Durham County Badger Group

We have no records or other information (eg road traffic casualties) in relation to the presence of badgers in this area and given its it is surrounded by a significant amount of industrial activity would be surprised if there was.

27. Office Of Nuclear Regulation

I have consulted with the emergency planners within Stockton-on-Tees Borough Council, which is responsible for the preparation of the Hartlepool off-site emergency plan required by the Radiation (Emergency Preparedness and Public Information) Regulations (REPPiR) 2019. They have provided adequate assurance that the proposed development can be accommodated within their off-site emergency plan arrangements. The proposed development does not present a significant external hazard to the safety of the nuclear site. Therefore, ONR does not advise against this development.

28. Pipeline CATS

CATS has no objection to Planning Application 22/1525/EIS.

29. Sabic UK Petrochemicals Ltd

Please note the planning application referenced 22/1525/EIS will not affect SABIC/INEOS high pressure ethylene pipeline apparatus

30. PADHI Health & Safety Executive

Do not advise against

**PUBLICITY**

31. Neighbours were notified and 10 objections were received with the main issues relating to the following;

- lack of necessity and increase in capacity from the consented scheme
- Adding to significant impact on air pollution and wildlife
- incineration has limited benefits with negative effects long term.
- importing waste would turn Teesside into one of the world's largest dumping grounds.
- How will the UK reach its target to recycle 65% municipal waste by 2035 if we continue to build incineration facilities?
- Pollution: the burning of waste creates high levels of pollution, most acutely impacting on the local people and environment as well as the health of the wider planet.
- Much of the material contained in the incinerated "residual waste" could have been recycled, reused or prevented thereby preventing targets being reached.
- The publication of the Environmental Improvement Plan 2023, which set out a target to reduce municipal residual waste by 26% by 2027 and by 50% by 2042 compared to a 2019 base year, in line with the Environment Act requirement to set legally-binding targets.
- Misleading' to call the electricity low-carbon, as you are still burning a lot of plastic to get your energy in an incinerator, so that is pretty similar to burning oil.
- The dispersion modelling study does not quantify the cumulative uncertainty in the predicted pollutant environmental concentrations and deposition.
- The 'in combination' pollutive and health effects on local people, and the designated sensitive wildlife sites (including the Teesmouth and Cleveland Coast Ramsar site) would not be insignificant - nitrous oxides, to name one pollutant, pose a severe health risk and damage to soil by over-fertilisation.
- The combined CO2 emissions from the construction phase and the 24/7 burning of waste on a long term contract violates the declared Climate Emergency we are in,

## **PLANNING POLICY**

32. 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 Stockton on Tees Borough Council Local Plan 2019.
33. Section 143 of the Localism Act came into force on the 15 January 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 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.

## **National Planning Policy Framework**

34. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
35. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
- approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii. 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.

Paragraph 85. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential

Paragraph 160. To help increase the use and supply of renewable and low carbon energy and heat, plans should: a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts); b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 163. When determining planning applications for renewable and low carbon development, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; b) approve the application if its impacts are (or can be made) acceptable<sup>58</sup>. Once suitable

areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.

Paragraph 186. When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate

Paragraph 188. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Paragraph 194. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

### **Local Planning Policy**

36. The following planning policies are considered to be relevant to the consideration of this application.

#### Strategic Development Strategy Policy 1 (SD1) - Presumption in favour of Sustainable Development

1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.
3. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise - taking into account whether:



- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or,
- Specific policies in that Framework indicate that development should be restricted.

#### Strategic Development Strategy Policy 2 (SD2) - Strategic Development Needs

1. The following strategic growth needs have been identified for the period 2017/18 to 2031/32, which will be met through new sustainable development and infrastructure provision that integrates positively with the natural, built and historic environment of the Borough.

##### Economic Growth

5. In order to provide sufficient employment sites to meet the needs of existing businesses, new start-ups and major inward investment there is a requirement to allocate sufficient land for specialist industries, business, general industry and warehousing, as follows:

- a. 120 hectares of land for specialist uses including, the chemical and process industry, energy generation, waste processing, port related uses and other uses, which demonstrate operational benefits to the North and South Tees Cluster.
- b. 70 hectares of land at Durham Tees Valley Airport of which 50ha is for airport related use and 20 hectares of general employment land.
- c. 110 hectares of land for general employment uses.

#### Strategic Development Strategy Policy 4 (SD4) - Economic Growth Strategy

1. Economic development needs will be directed to appropriate locations within the Borough to ensure the delivery of sustainable economic growth.

2. Proposals for the redevelopment of previously developed land, in particular prominent sites which have been derelict for a significant period of time, will be supported.

##### Specialist Uses

3. The Seal Sands, North Tees and Billingham Chemical Complex areas are the main growth locations for hazardous installations including liquid and gas processing; bio-fuels and biorefineries; chemical processing; resource recovery and waste treatment; energy generation; carbon capture and storage; and other activities, which have operational benefits for the cluster. To safeguard the specialist nature of this area general employment development, which is unrelated to the main cluster, will not be encouraged.

5. Economic growth proposals which attract significant numbers of people will be permitted in the vicinity of a hazardous installation only where there is no significant threat to public safety.

##### Employment and Training Opportunities

19. Support will be given to the creation of employment and training opportunities for residents. Major development proposals will demonstrate how opportunities arising from the proposal will be made accessible to the Borough's residents, particularly those in the most deprived areas and priority groups.

#### Strategic Development Strategy Policy 5 (SD5) - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:

a) Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.

b) Protecting and enhancing designated sites (including the Teesmouth and Cleveland Coast Special Protection Area and Ramsar) and other existing resources alongside the provision of new resources.

l) Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of ground, air, water, light or noise pollution or land instability. Wherever possible proposals should seek to improve ground, air and water quality.

m) Encouraging the reduction, reuse and recycling of waste, and the use of locally sourced materials.

2. Meet the challenge of climate change, flooding and coastal change through a variety of methods including:
  - a. Directing development in accordance with Policies SD3 and SD4.
  - b. Delivering an effective and efficient sustainable transport network to deliver genuine alternatives to the private car.
  - c. Supporting sustainable water management within development proposals.
  - d. Directing new development towards areas of low flood risk (Flood Zone 1), ensuring flood risk is not increased elsewhere, and working with developers and partners to reduce flood risk.
  - e. Ensuring development takes into account the risks and opportunities associated with future changes to the climate and are adaptable to changing social, technological and economic conditions such as incorporating suitable and effective climate change adaptation principles.
  - f. Ensuring development minimises the effects of climate change and encourage new development to meet the highest feasible environmental standards.
  - g. Supporting and encouraging sensitive energy efficiency improvements to existing buildings.
  - h. Supporting proposals for renewable and low carbon energy schemes including the generation and supply of decentralised energy.

#### Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
  - a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
  - b. Landscape character of the area, including the contribution made by existing trees and landscaping;
  - c. Need to protect and enhance ecological and green infrastructure networks and assets;
  - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
  - e. Privacy and amenity of all existing and future occupants of land and buildings;
  - f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
  - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
  - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.
4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.
5. New commercial development will be expected to provide appropriately designed signage and shop fronts.

#### Economic Growth Policy 4 (EG4) - Seal Sands, North Tees and Billingham

1. Development proposals for hazardous installations, uses related to the process industries, or emerging specialist sectors will be directed to available sites and expansion land in the following locations:
  - a. Billingham Chemical Complex including 45 ha of available land.
  - b. North Tees including 46 ha of available land.
  - c. Seal Sands including 144 ha of available land.

2. Development proposals in the North Tees and Seal Sands area will recognise the cumulative importance for bird species associated with the Teesmouth and Cleveland Coast SPA and Ramsar site. Appropriate development proposals will be encouraged at locations within the limits to development where:
  - a. If necessary, land has been identified to provide appropriate strategic mitigation; or
  - b. The applicant can demonstrate that the proposed development, in-combination with other proposals, will not adversely impact the Teesmouth & Cleveland Coast SPA and Ramsar site.
3. Should it become apparent that proposals for strategic mitigation cannot be identified, the Council will work with the Tees Estuary Partnership and relevant stakeholders to take appropriate action.
7. Development proposals in the North Tees and Seal Sands area are required, as appropriate, to be supported by a site specific Flood Risk Assessment which considers, amongst other matters, emergency access/egress in the event of tidal flooding.
8. Proposals which require hazardous substance consent will be designed and located to prevent an unacceptable increase in the level of risk to human health and the environment from an industrial accident or prejudice adjacent operational facilities or allocated sites.

#### Natural, Built and Historic Environment Policy 1 (ENV1) - Energy Efficiency

1. The Council will encourage all development to minimise the effects of climate change through meeting the highest possible environmental standards during construction and occupation.

The Council will:

- a. Promote zero carbon development and require all development to reduce carbon dioxide emissions by following the steps in the energy hierarchy, in the following sequence:
  - i. Energy reduction through 'smart' heating and lighting, behavioural changes, and use of passive design measures; then,
  - ii. Energy efficiency through better insulation and efficient appliances; then,
  - iii. Renewable energy of heat and electricity from solar, wind, biomass, hydro and geothermal sources; then
  - iv. Low carbon energy including the use of heat pumps, Combined Heat and Power and Combined Cooling Heat and Power systems; then
  - v. Conventional energy.
- b. Require all major development to demonstrate how they contribute to the greenhouse gas emissions reduction targets set out in Stockton-on-Tees' Climate Change Strategy 2016; and
- c. Support and encourage sensitive energy efficiency improvements to existing buildings.

2. Proposals are encouraged where development:

- a. Incorporates passive design measures to improve the efficiency of heating, cooling and ventilation; and
- b. Includes design measures to minimise the reliance on artificial lighting through siting, design, layout and building orientation that maximises sunlight and daylight, passive ventilation and avoids overshadowing.

Non domestic

4. All new non-residential developments up to and including 499 sq m of gross floor space will be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).

5. All new non-residential developments of 500 sq m and above of gross floor space will be required to:

- a. Submit an energy statement demonstrating how the energy hierarchy has been applied to make the fullest contribution to CO2 reduction; and
- b. Be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).

#### Natural, Built and Historic Environment Policy 2 (ENV2) - Renewable and Low Carbon Energy Generation

1. Development proposals will be supported where renewable energy measures are considered from the outset, including incorporating small-scale renewable and low carbon energy generation into the design of new developments where appropriate, feasible and viable, and where there would be no unacceptable adverse effects on landscape, ecology, heritage assets and amenity. The Council encourages and supports:
  - a. The local production of energy from renewable and low carbon sources to help to reduce carbon emissions and contribute towards the achievement of renewable energy targets; and
  - b. Community energy schemes that reduce, manage and generate energy to bring benefits to the local community.
2. No suitable areas for wind energy generation have been identified in the Local Plan and planning applications for commercial wind turbines in the countryside will be resisted.
3. Planning applications for energy generation from renewable and low carbon sources, other than wind energy generation, will be considered against the principles in Policy SD8. Proposals should be supported by a comprehensive assessment of the landscape, visual and any other impacts of the proposal.
4. Developers should, where appropriate, provide details alongside a planning application of a satisfactory scheme to restore a site to at least its original condition when the scheme has reached the end of its operational life.
5. To ensure that the Council can monitor the effectiveness of renewable and low carbon technologies, major developments will be required to install appropriate monitoring equipment.

#### Natural, Built and Historic Environment Policy 4 (ENV4) - Reducing and Mitigating Flood Risk

1. All new development will be directed towards areas of the lowest flood risk to minimise the risk of flooding from all sources, and will mitigate any such risk through design and implementing sustainable drainage (SuDS) principles.
2. Development on land in Flood Zones 2 or 3 will only be permitted following:
  - a. The successful completion of the Sequential and Exception Tests (where required); and
  - b. A site specific flood risk assessment, demonstrating development will be safe over the lifetime of the development, including access and egress, without increasing flood risk elsewhere and where possible reducing flood risk overall.
3. Site specific flood risk assessments will be required in accordance with national policy.
4. All development proposals will be designed to ensure that:
  - a. Opportunities are taken to mitigate the risk of flooding elsewhere;
  - b. Foul and surface water flows are separated;
  - c. Appropriate surface water drainage mitigation measures are incorporated and Sustainable Drainage Systems (SuDS) are prioritised; and
  - d. SuDS have regard to Tees Valley Authorities Local Standards for Sustainable Drainage (2015) or successor document.
5. Surface water run-off should be managed at source wherever possible and disposed of in the following hierarchy of preference sequence:
  - a. To an infiltration or soak away system; then,
  - b. To a watercourse open or closed; then,
  - c. To a sewer.
6. Disposal to combined sewers should be the last resort once all other methods have been explored.
7. For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1-in-1 year rainfall event and the 1-in-100 year rainfall event should be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event. For greenfield developments, the peak runoff rate from the development to any highway drain, sewer or surface water body for the 1-in-1 year rainfall event and the 1-in-100 year rainfall event should never exceed the peak greenfield runoff rate for the same event.
8. Within critical drainage areas or other areas identified as having particular flood risk issues the Council may:

- a. Support reduced run-off rates.
  - b. Seek contributions, where appropriate, towards off-site enhancements directly related to flow paths from the development, to provide increased flood risk benefits to the site and surrounding areas.
9. Sustainable Drainage Systems (SuDS) should be provided on major development (residential development comprising 10 dwellings or more and other equivalent commercial development) unless demonstrated to be inappropriate. The incorporation of SuDS should be integral to the design process and be integrated with green infrastructure. Where SuDS are provided, arrangements must be put in place for their whole life management and maintenance.
10. Through partnership working the Council will work to achieve the goals of the Stockton-on-Tees Local Flood Risk Management Strategy and the Northumbria Catchment Flood Management Plan. This will include the implementation of schemes to reduce the risk of flooding to existing properties and infrastructure. Proposals which seek to mitigate flooding, create natural flood plains or seek to enhance and/or expand flood plains in appropriate locations will be permitted.
11. To reduce the risk of flooding the Council is working in partnership with the Environment Agency to deliver a Flood Alleviation Scheme on Lustrum Beck.

Natural, Built and Historic Environment Policy 5 (ENV) - Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity

1. The Council will protect and enhance the biodiversity and geological resources within the Borough. Development proposals will be supported where they enhance nature conservation and management, preserve the character of the natural environment and maximise opportunities for biodiversity and geological conservation particularly in or adjacent to Biodiversity Opportunity Areas in the River Tees Corridor, Teesmouth and Central Farmland Landscape Areas.
2. The Council will preserve, restore and re-create priority habitats alongside the protection and recovery of priority species.
3. Ecological networks and wildlife corridors will be protected, enhanced and extended. A principal aim will be to link sites of biodiversity importance by avoiding or repairing the fragmentation and isolation of natural habitats.
4. Sites designated for nature or geological conservation will be protected and, where appropriate enhanced, taking into account the following hierarchy and considerations:
  - a. Internationally designated sites - Development that is not directly connected with or necessary to the management of the site, but which is likely to have a significant effect on any internationally designated site, irrespective of its location and when considered both alone and in combination with other plans and projects, will be subject to an Appropriate Assessment. Development requiring Appropriate Assessment will only be allowed where:
    - i. It can be determined through Appropriate Assessment, taking into account mitigation, the proposal would not result in adverse effects on the site's integrity, either alone or in combination with other plans or projects; or
    - ii. as a last resort, where, in light of negative Appropriate Assessment there are no alternatives and the development is of overriding public interest, appropriate compensatory measures must be secured.
  - b. Nationally designated sites - Development that is likely to have an adverse effect on a site, including broader impacts on the national network of Sites of Special Scientific Interest (SSSI) and combined effects with other development, will not normally be allowed. Where an adverse effect on the site's notified interest features is likely, a development will only be allowed where:
    - i. the benefits of the development, at this site, clearly outweigh both any adverse impact on the sites notified interest features, and any broader impacts on the national network of SSSI's;
    - ii. no reasonable alternatives are available; and
    - iii. mitigation, or where necessary compensation, is provided for the impact.
  - c. Locally designated sites: Development that would have an adverse effect on a site(s) will not be permitted unless the benefits of the development clearly outweigh the harm to the

conservation interest of the site and no reasonable alternatives are available. All options should be explored for retaining the most valuable parts of the sites interest as part of the development proposal with particular consideration given to conserving irreplaceable features or habitats, and those that cannot readily be recreated within a reasonably short timescale, for example ancient woodland and geological formations. Where development on a site is approved, mitigation or where necessary, compensatory measures, will be required in order to make development acceptable in planning terms.

5. Development proposals should seek to achieve net gains in biodiversity wherever possible. It will be important for biodiversity and geodiversity to be considered at an early stage in the design process so that harm can be avoided and wherever possible enhancement achieved (this will be of particular importance in the redevelopment of previously developed land where areas of biodiversity should be retained and recreated alongside any remediation of any identified contamination). Detrimental impacts of development on biodiversity and geodiversity, whether individual or cumulative should be avoided. Where this is not possible, mitigation and lastly compensation, must be provided as appropriate. The Council will consider the potential for a strategic approach to biodiversity offsetting in conjunction with the Tees Valley Local Nature Partnership and in line with the above hierarchy.

#### Natural, Built and Historic Environment Policy 7 (ENV7) - Ground, Air, Water, Noise and Light Pollution

1. All development proposals that may cause groundwater, surface water, air (including odour), noise or light pollution either individually or cumulatively will be required to incorporate measures as appropriate to prevent or reduce their pollution so as not to cause unacceptable impacts on the living conditions of all existing and potential future occupants of land and buildings, the character and appearance of the surrounding area and the environment.

2. Development that may be sensitive to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive developments or areas unless satisfactory mitigation measures can be demonstrated.

3. Where development has the potential to lead to significant pollution either individually or cumulatively, proposals should be accompanied by a full and detailed assessment of the likely impacts. Development will not be permitted when it is considered that unacceptable effects will be imposed on human health, or the environment, taking into account the cumulative effects of other proposed or existing sources of pollution in the vicinity. Development will only be approved where suitable mitigation can be achieved that would bring pollution within acceptable levels.

4. Where future users or occupiers of a development would be affected by contamination or stability issues, or where contamination may present a risk to the water environment, proposals must demonstrate via site investigation/assessment that:

a. Any issues will be satisfactorily addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact upon human health and the environment; and

b. Demonstrate that development will not cause the site or the surrounding environment to become contaminated and/or unstable.

5. Groundwater and surface water quality will be improved in line with the requirements of the European Water Framework Directive and its associated legislation and the Northumbria River Basin Management Plan. Development that would adversely affect the quality or quantity of surface or groundwater, flow of groundwater or ability to abstract water will not be permitted unless it can be demonstrated that no significant adverse impact would occur or mitigation can be put in place to minimise this impact within acceptable levels.

6. To improve the quality of the water environment the Council will:

a. Support ecological improvements along riparian corridors including the retention and creation of river frontage habitats;

- b. Avoid net loss of sensitive inter-tidal or sub-tidal habitats and support the creation of new habitats; and
- c. Protect natural water bodies from modification, and support the improvement and naturalisation of heavily modified water bodies (including de-culverting and the removal of barriers to fish migration).

#### Transport and Infrastructure Policy 1 (TI1) - Transport Infrastructure

##### New Development

10. Existing sustainable transport and public transport infrastructure will be protected from development which would impair its function or attractiveness to users.

11. To assist consideration of transport impacts, improve accessibility and safety for all modes of travel associated with development proposals, the Council will require, as appropriate, a Transport Statement or Transport Assessment and a Travel Plan.

#### **The Joint Minerals and Waste Local Plan 2011 - 2026.**

37. The Tees Valley Minerals and Waste Development Plan Documents (DPDs) prepared jointly by the boroughs of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees bring together the planning issues surrounding minerals and waste within the area.

#### Policy MWC6: Waste Strategy

The sustainable management of waste arisings in the Tees Valley will be delivered through:

- a) making provision for sufficient annual waste management capacity to allow:
  - i) 40% of household waste from the Tees Valley to be recycled or composted from 2010, rising to 46% from 2016;
  - ii) to recover value from 53% of municipal solid waste from the Tees Valley from 2010, rising to 72% from 2016; and
  - iii) to increase the recovery of value from commercial and industrial waste from the Tees Valley to 73% from 2016;
- b) promoting facilities and development that drives waste management up the waste hierarchy;
- c) the distribution of waste management sites across the Tees Valley so that facilities are well related to the sources of waste arisings, related industries or the markets for any products created;
- d) safeguarding the necessary infrastructure to enable the sustainable transport of waste, in particular the use of the existing rail and port facilities in the Tees Valley; and
- e) developing the regional and national role of the Tees Valley for the management of specialist waste streams. In taking forward waste development in the plan area, and particularly along the river corridor and the Tees Estuary, proposals will need to demonstrate that there will be no adverse impact on the integrity of the Teesmouth and Cleveland Coast Special Protection Area and Ramsar site, and other European sites, either alone or in combination with other plans and programmes. Any proposed mitigation measures must meet the requirements of the Habitat Regulations. All waste developments must be compatible with their setting and not result in unacceptable impacts on public amenity, environmental, historic or cultural assets from their design, operations, management and, if relevant, restoration.

#### Policy MWC7: Waste Management Requirements

Land will be provided for the development of waste management facilities to meet the identified requirements of the Tees Valley, as follows:

- a) for the composting of at least 16,000 tonnes of municipal solid waste per year from 2010, rising to at least 24,000 tonnes per year in 2016 and 31,000 tonnes per year by 2021;
- b) for the recovery of value from at least 103,000 tonnes of municipal solid waste and commercial and industrial waste per year from 2010, falling to 83,000 tonnes per year by 2021;

- c) for the recycling of at least 700,000 tonnes of construction and demolition waste per year from 2016, rising to 791,000 tonnes per year by 2021; and
- d) to provide additional treatment and management facilities to reduce the amount of hazardous waste that is sent for landfill or disposal each year from the 2007 level of around 130,000 tonnes. Land for one household waste recycling centre within the south of Stockton-on-Tees Borough, and one household waste recycling centre in the South Tees area will be provided to address a spatial imbalance of service provision. Proposals for facilities to meet capacity to deal with waste imported from outside the Tees Valley must be supported by evidence of the need for these facilities and justification for their location within the Tees Valley.

### **MATERIAL PLANNING CONSIDERATIONS**

- 38. The main material considerations in this application are the principle of development; landscape and visual amenity, transport issues, and any other residual matters that arise during the course of the application.

#### Policy Implications and principle of development

- 39. The applicant states there is a national need for the generation of energy from renewable, sustainable, and low carbon sources including energy recovery facilities and that energy from waste facilities are well established. The Overarching National Policy Statement for energy (EN-1) (which is used for nationally significant infrastructure projects) states the principal purpose of the combustion of waste, or similar processes is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity, heat or fuel. Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. This is to ensure that environmental impacts are minimised, and that the resource value extracted is maximised. In addition, the plant must not compete with greater waste prevention, re-use or recycling, or result in over-capacity of EfW waste treatment at a national or local level.
- 40. National Policy Statement EN-3 Renewable Energy states 'Energy from Waste (EfW) plays an important role in meeting the UK's energy needs. Furthermore, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.' Energy from Waste could contribute to the decarbonisation of electricity generation through the addition of carbon capture, utilisation and storage.
- 41. Paragraph 163 of the NPPF states 'When determining planning applications for renewable and low carbon development, local planning authorities should a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and b) approve the application if its impacts are (or can be made) acceptable...'
- 42. The overarching ambition of the draft Tees Valley Local Industrial Strategy is for Tees Valley to be a global leader in clean energy, low carbon and hydrogen. The area aspires to achieve a net zero carbon industrial cluster by 2040, providing good jobs with long-term prospects that local people can access. It is recognised in the document that Tees Valley has regional strengths and growth potential for energy production across key industrial sites including Seal Sands.
- 43. In terms of Local Policy, the application site is located in an area generally used for chemical, general industrial or storage and distribution uses. Policy SD4 allocates the land for "specialist economic development" to ensure the delivery of sustainable economic growth whilst protecting the natural and historic environment. The proposed development meets the requirements this policy as a resource recovery and waste treatment plant producing electricity.



44. Policy ENV2 of the Stockton on Tees Borough Council Local Plan states that development proposals will be supported where renewable energy measures are considered from the outset and the Council encourages and supports the local production of energy from renewable and low carbon sources to help to reduce carbon emissions and contribute towards the achievement of renewable energy targets. The proposed development accords with this policy.
  45. The Applicant states that the Refuse Derived Fuel (RDF) will comprise residual waste that has had all the reusable, recyclable or compostable material removed and is material that would otherwise be landfilled or exported abroad. This is consistent with the waste hierarchy and is moving waste up the hierarchy as energy will be recovered.
  46. Comments have been made generally about the application and that times have changed since the original approval, in particular the recycling targets. The Applicant has provided additional information stating that whilst the recycling rate in England has increased since 2020 (44.4%). Even if the 65% recycling rate target is met by 2035 there will still be a need to manage residual waste that cannot be prevented, reused or recycled. This waste can either be used as a fuel at the proposed facility - or landfilled. The need for energy recovery from waste is acknowledged by Government in the Resources and Waste Strategy. Based on the guidance and the calculation formula provided by the European Commission for R1 facilities, the proposed plant is likely to achieve R1 status and can be classified as a recovery operation under the terms of the Waste Framework Directive.
  47. Comments regarding the UK being dumping ground for other people's waste are noted and that there are other facility's that can take the waste mentioning the Tees Valley Energy Recovery Facility; however a fuel supply agreement (FSA) is in place for the delivery of 200,000 tonnes of fuel per annum to the proposed facility from the local area. A copy of the FSA has been provided in commercial confidence to the case officer. Additional fuel sources for the remaining 40,000 tonne capacity will be sought from the UK. The other sites that have been mentioned by objectors have not yet commenced and it is likely that projects will not be taken forward to construction unless there is certainty regarding the supply of the fuel source and the operation of the facility. In this case as well as fuel source, export grid capacity has been secured with the Distribution Network Operator (Northern PowerGrid) for the export of up to 40MW of electricity from the proposed plant.
  48. The proposed development will assist in meeting the urgent need for renewable, sustainable, low carbon energy generation together with moving waste up the waste hierarchy and obtaining value from waste that would otherwise be exported for use or landfilled.
  49. In terms of social and economic benefits the development will create a significant investment with a value of over £500m, up to 200 jobs in the construction phase and up to 35 total full-time equivalent permanent jobs directly employed. A condition has been recommended to secure the local labour and investment where possible.
  50. Advice from the Health and Safety Executive has been obtained and they raise no objections, and the proposal therefore complies with Policy SD4 of the Adopted Stockton on Tees Local Plan. Comments from Cleveland Emergency Planning are noted however the pipeline operators and correct neighbours have been notified and no objections have been received.
- Impact on the Character and appearance of the area
51. A Landscape and Visual Impact Assessment accompanies the application. The proposals incorporate a number of buildings and structures. The associated plant and infrastructure will all be less than 35m high. The boiler hall will be up to 41m high and the stack will be up to 85m high

52. These structures and proposed land use are consistent with the wider industrial context of the area and it is considered that the scale and appearance of the scheme is acceptable within this industrial location as it is comparable to in size to existing buildings in the area and the scheme will not have an adverse impact on the surrounding area, which is predominantly industrial in nature. Accordingly, the HTDM has raised no objections to the proposed scheme.
53. Overall, given the context of the site it is not considered that the proposed scheme will have an adverse impact on the character and appearance of the area.

Impact on Amenity of neighbouring land users

54. Given the predominantly commercial and industrial nature of the surrounding site and uses, it is considered that the scheme will not have an adverse impact on the amenity of neighbouring land users or lead to a significant increase in the levels of noise and disturbance. Furthermore, the Environmental Health Unit has raised no objections in this regard.
55. Pipeline operators were notified, and no objections have been received. Comments from the CEMPU are noted however the pipeline operators have all been notified along with the relevant neighbours.

Impact on highway safety

56. A Transport Assessment has been submitted in support of the application along with the access and layout plans.
57. Once operational, the proposed development would employ 34 full time employees. The site would operate 24 hours per day and would operate two 12-hour shifts, running between 07:00 - 19:00, and 19:00 – 07:00. There would be 22 staff on site during the day shift, and 12 on site during the night shift. The site provides 28 car parking spaces, including two disabled spaces, and four bicycle spaces. This is satisfactory to accommodate the requirements of the proposed development.
58. HGVs are expected to generate 26 movements per day. Deliveries would operate 24 hours per day however approximately 75% of HGV movements would occur during the day shift, with two two-way HGV movements an hour during the day shift, and one every two hours during the night shift. The proposed development would generate five more daily two-way HGV movements than the extant consent.
59. Construction is expected to last approximately 28 months, with 200 people employed over the duration, with the maximum number of workers expected onsite at 100, and their arrivals and departures would be timed to avoid the peak hours. Construction Traffic would park off-site on nearby land. A detailed Construction Management Plan (CMP) would be produced; however a Framework Travel Plan has been prepared to accompany the application.
60. The Highways Transport and Design Team have considered the proposal in context with the extant permission and raised no objections, and it is therefore considered that the scheme will not have a detrimental impact upon highway safety and is acceptable.

Ecology

61. The application site is in close proximity to the Teesmouth and Cleveland Coast Special Protection Area (SPA), Wetland of International Importance under the Ramsar Convention (Ramsar Site). The SPA site is also a Site of Special Scientific Interest (SSSI) and a National Nature Reserve (NNR). European sites are afforded protection under the Conservation of Habitats and Species Regulations (the 'Habitats Regulations').

62. When considering the European site interest, as a competent authority under the provisions of the Habitats Regulations, the local planning authority should have regard for any potential impacts that a plan or project may have. There are a series of steps and tests which should be followed for plans or projects that could potentially affect a European site and these steps and tests are commonly referred to as the "Habitats Regulations Assessment" process. The tests/screening is set out below.

**STEP 1: Is the project or plan directly connected with or necessary to the management of the site? NO**

**STEP 2: Is the proposal likely to have a significant effect on the sites of importance? YES**

63. The potential pathways for likely significant effects are as a result of noise, visual disturbance, emissions to ground, water and air and construction traffic movements. Due to the distance of the site from the SPA, Ramsar or SSSI site and the intervening industrial land uses it is considered that temporary construction impacts and the noise, light and visual impacts will not affect the qualifying features. The industrial uses located between the site and the SPA, Ramsar or SSSI site have been present for many years and it is considered that the birds are habituated to the surrounding land uses in close proximity to the SPA, Ramsar or SSSI site.
64. Without mitigation the proposed development has the potential to result in effects on the sites. The HRA concludes that with mitigation and the controls that will be implemented during construction and operation of the site through the CEMP, the combustion process and associated emission controls and the stack height determined by detailed air quality modelling, the Environmental Permit and associated Environmental Management System respectively that there will be no significant effects on the Teesmouth and Cleveland Coast SPA, Ramsar and SSSI.
65. Natural England has considered the submission and further information was required in relation to the potential for nutrient nitrogen deposition impacts on features of concern within Teesmouth and Cleveland Coast SSSI, in particular the coastal sand dunes. The technology to be used in the proposed facility can achieve an Ammonia (NH<sub>3</sub>) Emission Limit Value (ELV) of 3 mg/Nm<sup>3</sup> (Milligrams per normalised cubic metre) and with this level it is considered that the impacts of the facility on the features of concern within the Teesmouth and Cleveland Coast SSSI are less than 1% of the most stringent critical load and therefore the impacts are judged to be not significant. Limiting the NH<sub>3</sub> ELV to 3 mg/Nm<sup>3</sup> will also reduce any potential impacts on the Teesmouth and Cleveland Coast SPA and Ramsar. This information has been considered by NE and based on this information it is considered that the likely significant effect can be ruled out. NE has requested that this approach is made a condition of the proposed development which has been recommended.
66. In terms of road traffic emissions, the potential for cumulative traffic impacts has been assessed and compared to the extant consent and it is considered that the road traffic emissions from this minor increase would not result in a significant adverse impact.
67. A Preliminary Ecological Appraisal and a walkover was undertaken. eDNA surveys were undertaken on the 4 small ponds on site and one pond on the adjacent land. Habitats were assessed for their suitability by birds, reptiles, bats, badgers and water voles/otters. No additional protected or priority species not previously recorded in 2012 were found or were considered likely to be present in 2022. There has been no material change in the ecological value of the site since 2012.
68. The submitted information acknowledges that there will be an impact and in the LPAs role of competent authority an Appropriate assessment has been undertaken and is currently being reviewed by Natural England. Whilst there will be an impact, with the mitigation secured the

local planning authority consider that the development will have no significant residual effect upon any statutory designated site/qualifying features. In principle, Natural England have raised no objections to the scheme subject to the mitigation being secured by condition or legal agreement. Conditions have been recommended to this effect.

#### Contaminated Land

69. A Desk Study and a review of the 2001 site investigation has been undertaken, which showed groundwater exceedances in concentrations of chromium, VOC's and other metals. A further ground investigation to assess ground conditions will be undertaken to confirm the results and outline a remediation plan.
70. The Environment Agency and Environmental Health Officer have been consulted and raised no objections subject to conditions and informatives which have been recommended.

#### Noise and Vibration

71. A baseline noise survey has been undertaken at locations agreed with SBC Environmental Health Officer. Given the large separation distance between the site and noise sensitive premises and the proposed threshold limits the results show that the noise generated during the construction operations is not likely to cause significant impacts.
72. Due to the distance of the development site from the assessment locations the calculated noise levels from the operations are lower than the background sound level hence it is concluded that the scheme will have a low impact. There will be no detectable effect on health or quality of life due to noise from the proposed facility
73. Overall, it is considered that there will be no adverse impact through noise and the proposals comply with policy ENV7.

#### Air Quality

74. An AQA was undertaken to assess the air quality impacts of construction and operation of the proposed development and additional information has also been provided at the request of the EHO. The air quality impacts from the proposals were determined as not significant given the proposed design and based on the predictions, the designed emission and stack heights and the use of robust assumptions.
75. Comments regarding the 'in combination' pollutive and health effects on local people, are noted however emissions associated with the operation of the plant will be the subject of control and regulation by the Environment Agency through the Environmental Permit. Further air quality assessments will be undertaken and submitted as part of the permit application. As part of the air quality assessment, it is necessary to assess the cumulative impact of the development with existing operational plant together with committed development.
76. Comments in relation to the combined CO2 emissions violating the declared Climate Emergency the UK are in are noted; however, the proposed development will have the potential for the addition of carbon capture, utilisation and storage (CCUS) technology and is well located to join Net Zero Teesside. It is not considered that this would be a reason to refuse the application.
77. Concerns were also raised regarding the uncertainty of the modelling predictions; however the reports have been undertaken by a competent expert using professional judgement to determine the likely significant effect of the proposal. The information has been considered by the Environment Agency and the Environmental Health Team and no objections have been raised and therefore the content is considered valid.

#### Flood Risk

78. Policy ENV4 (Reducing and Mitigating Flood Risk) states that all new development will be directed towards areas of the lowest flood risk to minimise the risk of flooding from all sources and will mitigate any such risk through design and implementing sustainable drainage (SuDS) principles.
79. A surface management scheme will be implemented during the construction and operation of the site which has been conditioned. The site is located in Flood Zone 1 and there are no reports of historical flooding at or in the vicinity of the site. It is concluded that with the mitigation measures proposed including the implementation of the surface water management scheme the development can be undertaken without significant effects on flood risk at or in the vicinity of the site. Mitigation measures would include the preparation of a CEMP, which is secured by condition.
80. Overall it is considered that the scheme is acceptable in flood risk and drainage terms subject to conditions as advised by the LLFA which have been recommended.

**Other matters**

81. Policy ENV1 (Energy Efficiency) highlights that development should minimise the effects of climate change through meeting the highest environmental standards during construction and occupation. All major developments are required to demonstrate how they contribute to greenhouse gas emissions reduction targets. This will be secured by a suitably worded planning condition

**CONCLUSION**

82. The Local Planning Authority has evaluated the Environmental Statement to ensure it addresses all of the relevant environmental issues and the information is presented accurately, clearly and systematically. The Local Planning Authority is satisfied that it has in its possession all relevant environmental information about the likely significant environmental effects of the project before it makes its decision whether to grant planning permission.
83. In conclusion, it is considered the proposals do not give rise to any major concerns in terms of conflict with local planning policy and meets national policy requirements.
84. There is no issue to suggest that the development will have a significant impact on ecology or traffic and transport. Other residual matters have also been examined and though a number of conditions will need to be imposed to properly control the development and its future operation, the proposal is considered acceptable.
85. In summary there are no sustainable land use planning reasons for resisting the development and it is recommended that the application be approved with conditions for the reasons specified above.

**Assistant Director Of Inclusive Growth And Development  
Contact Officer Elaine Atkinson Telephone No 01642 526062**

**WARD AND WARD COUNCILLORS**

|                        |  |
|------------------------|--|
| <b>Ward</b>            | <b>Billingham South (Pre May 2023)</b> |
| <b>Ward Councillor</b> | <b>Councillor Mrs Jean O'Donnell</b>   |
| <b>Ward Councillor</b> | <b>Councillor Mike Smith</b>           |

**IMPLICATIONS**

**Financial Implications: None**

**Environmental Implications: See 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**

National Planning Policy Framework

National Policy Statements

Stockton on Tees Local Plan Adopted 2019

Tees Valley Joint Minerals and Waste Development Plan Documents – Core Strategy DPD – 2011

Tees Valley Joint Minerals and Waste Development Plan Documents – Policies and Sites DPD – 2011

**APPENDIX 1 : Site Location Plan**  
**Application No: 22/1525/EIS**

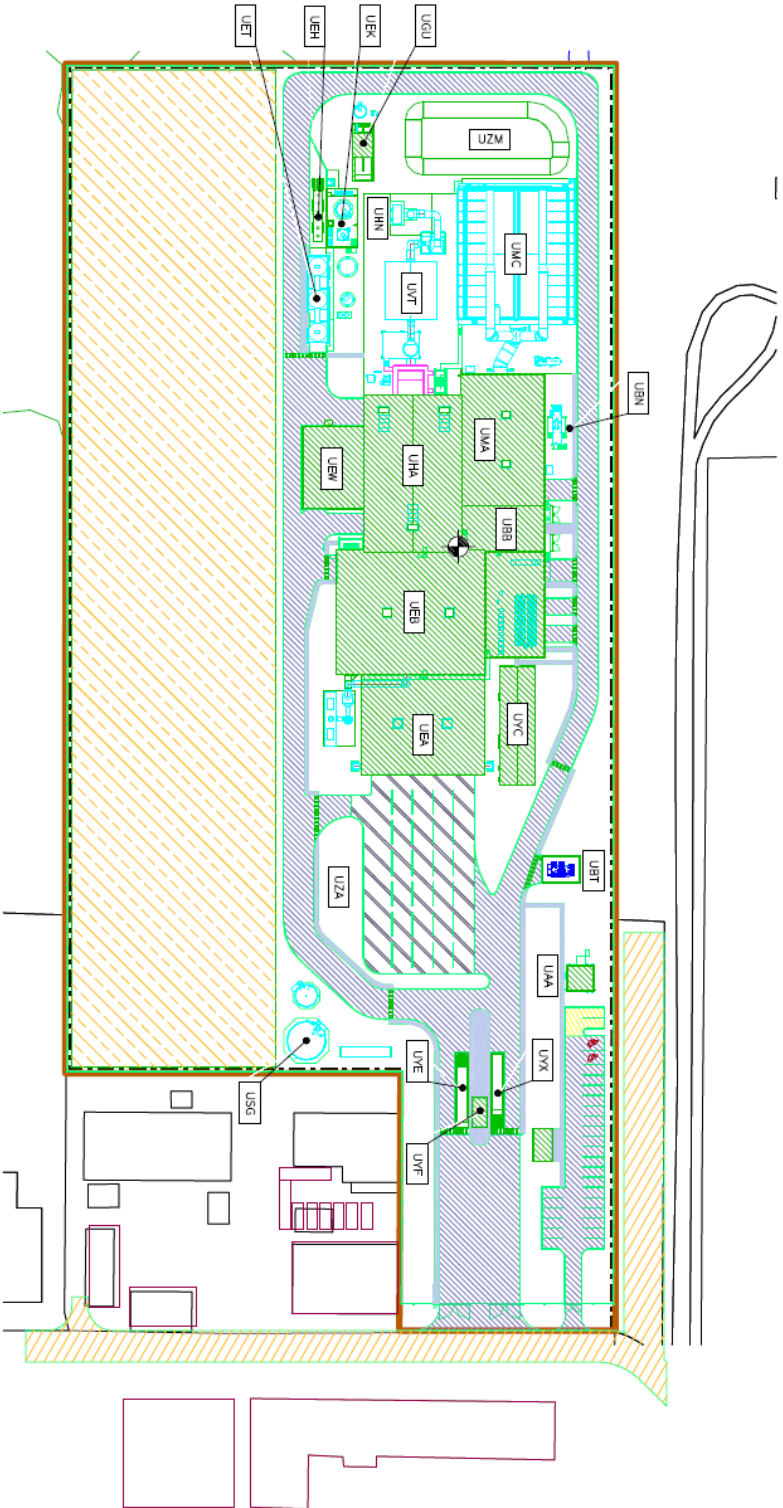


Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations at Land at Seal Sands, Billingham

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**APPENDIX 2 : Site Layout Plan  
Application No: 22/1525/EIS**



Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations at Land at Seal Sands, Billingham

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Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations at Land at Seal Sands, Billingham

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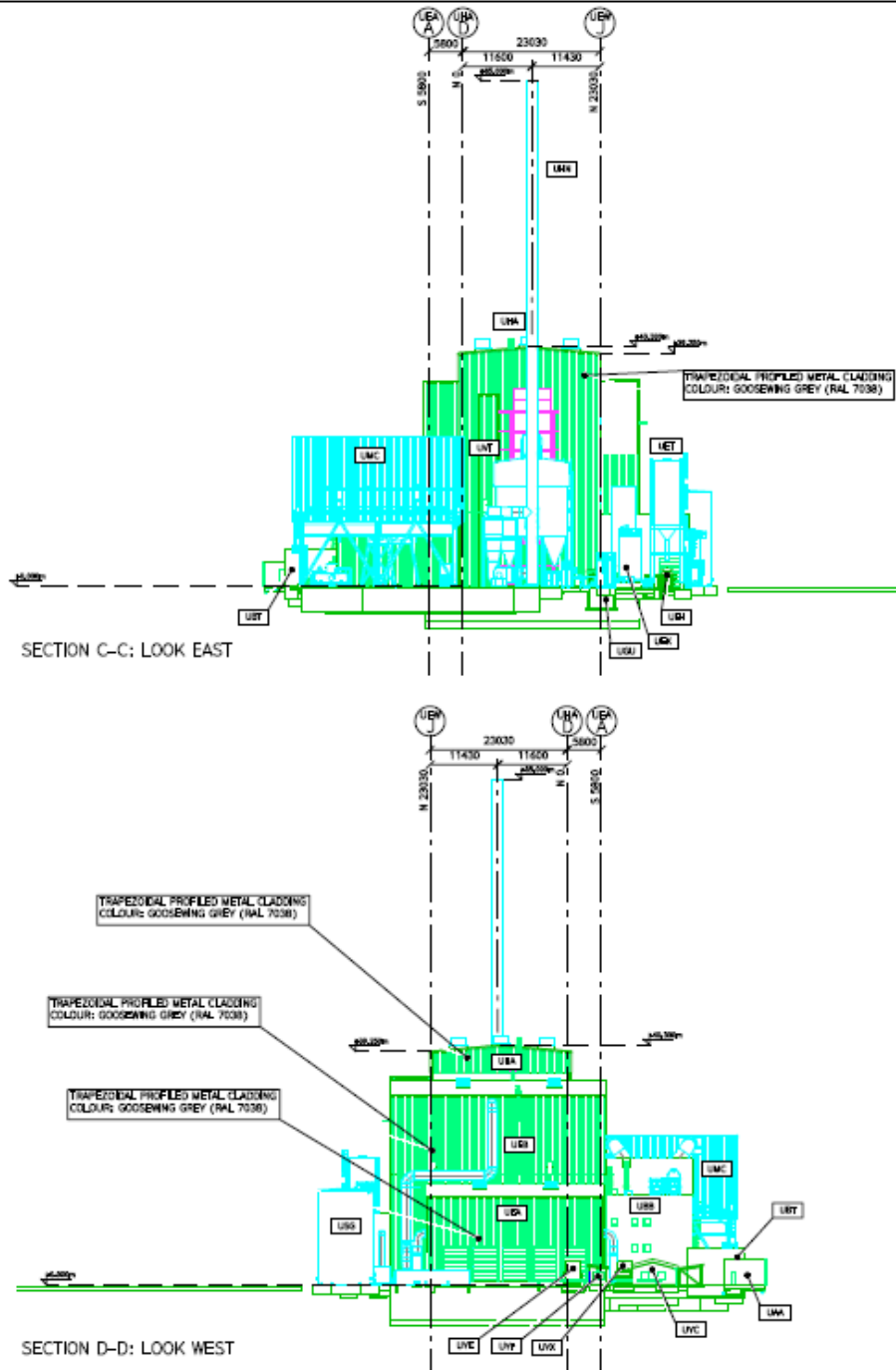
# APPENDIX 4: South and North Elevations Application No: 22/1525/EIS



Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations at Land at Seal Sands, Billingham

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## APPENDIX 5: East and West Elevations Application No: 22/1525/EIS

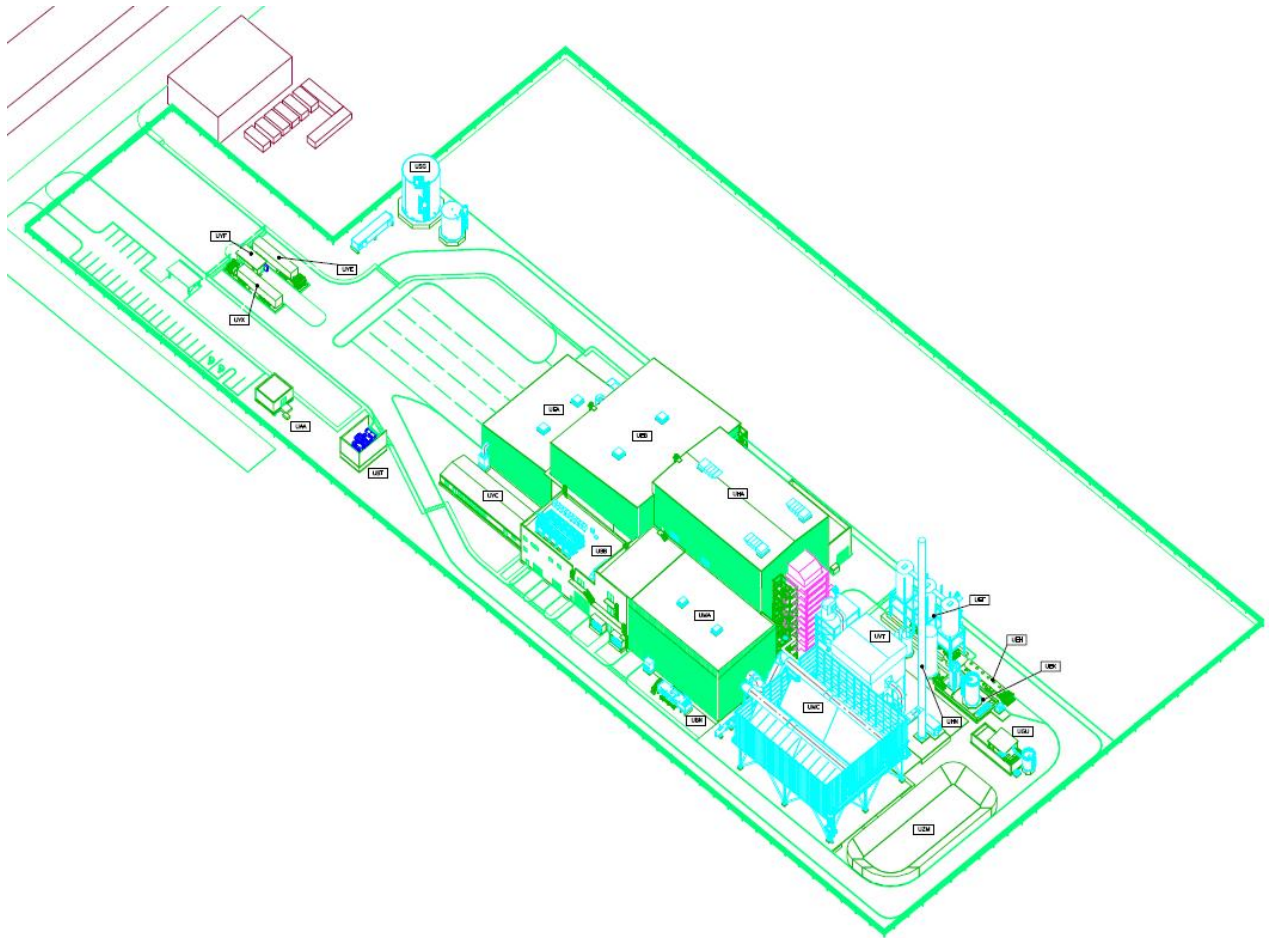


Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations at Land at Seal Sands, Billingham

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**APPENDIX 6: 3D VIEW**  
**Application No: 22/1525/EIS**



Erection of an energy recovery facility and associated infrastructure for fuel receipt and storage, power generation, power export, process emissions control, maintenance, offices and car parking together with associated operations at Land at Seal Sands, Billingham

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**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**10 April 2024**

**REPORT FOR ASSISTANT DIRECTOR OF  
INCLUSIVE GROWTH AND DEVELOPMENT**

**23/0888/OUT**

**Land Off Stoney Wood Drive, Wynyard, TS22 5SN**

**Outline application with all matters reserved for the erection of 2no dwellinghouses and detached garages.**

**Expiry Date: 12 April 2024**

### **SUMMARY**

The site relates to an approximate 0.6-hectare parcel of land off Stoney Wood Drive, Wynyard and lies on the edge of an existing and established residential area of Wynyard Woods, The Plantations. On the site is a segment of tall and established trees which provide a buffer between the site and the surrounding residential properties. The site is located within the red line boundary of 13/0342/EIS which was approved for approximately 500no homes; this development is now well underway and is established across the majority of the wider site.

Outline consent with all matters reserved is being sought for the erection of 2no dwellinghouses and detached garages. The 0.6ha plot would be subdivided into two segments and would be for the purposes of Self-Build properties.

A total of 26 letters of objections have been received by 21 contributors. The objections are principally raising concern over impact on highway safety, amenity, ecology, trees and deviation from what was stipulated within the Wynyard Masterplan. A summary of all the concerns are addressed within the report.

The proposed development has been revised to a single point of access serving both dwellings (as opposed to two separate access points). Further alterations to the scheme include a diversion of a watercourse which previous ran through the site, now proposed to run adjacent to Stoney Wood Drive and the western boundary of the plots. Following the re-consultation on the revised proposal, there are no objections from any of the technical consultees. It is considered that the revised development has addressed the previous concerns, and the application is therefore recommended for approval subject to the conditions set out within this report.

### **RECOMMENDATION**

**That planning application 23/0888/OUT be approved subject to the following conditions and informative:**

#### **01 Time Period**

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

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

**02 Approved Plans**

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

| <b>Plan Reference Number</b>                    | <b>Date Received</b> |
|---|----------------------|
| CPT_320_SELF_BUILD_PL03                         | 25 March 2024        |
| CPT_320_SELF_BUILD_PL02_B                       | 8 February 2024      |
| CPT_320_SELF_BUILD_PL10                         | 8 February 2024      |
| CPT_320_SELF_BUILD_RED_LINE_A3L_PL<br>01_1 REVC | 8 February 2024      |

Reason: To define the consent.

**03 Reserved Matters Details**

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

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

**04 Reserved Matters Submission**

An application for the approval of reserved matters shall be made to the Local Planning authority not later than three years from the date of this permission.

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

**05 Design Code**

Notwithstanding the submitted Design Code prior to the submission of a Reserved Matter Application a revised design code shall be submitted to and approved in writing by the Local Planning Authority. The revised design code shall provide clear guides as to scale and massing to consider minimum and maximum eave and ridge height, clear build zone to include front and side build zones, placement of detached garages, landscaping both hard and soft and boundary treatments. Thereafter the Reserved Matters applications shall comply with the design Code.

Reason: To ensure a high quality form of development.

**06 Buffer Landscaping**

No development shall commence until a structure plan with full details of a buffer landscaping scheme to the eastern boundary of the site has been submitted to and been approved in writing by the Local Planning Authority.

The associated scheme will include a detailed planting plan and specification of works (including associated underplanting) indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for tree pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans.

All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development and shall be completed to the satisfaction of the Local Planning Authority.

Reason: To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhances bio diversity.

#### **07 Tree Protection**

Notwithstanding the proposals detailed in the Design and Access Statement/ submitted plans no development shall commence until an Arboricultural Method Statement and Tree Protection Plan is approved in writing by the Local Planning Authority. This must be in close accordance with:

1. BRITISH STANDARD 5837:2012 Trees in relation to design, demolition and construction – Recommendations
2. BRITISH STANDARD 3998:2010 Tree Work - Recommendations
3. NJUG Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) – Operatives Handbook 19th November 2007

Any such scheme agreed in writing by the Local Planning Authority shall be implemented prior to any equipment, machinery or materials being brought to site for use in the development and be maintained until all the equipment, machinery or surplus materials connected with the development have been removed from the site.

Reason: To protect the existing trees on and immediately adjacent to the site (within 10m) that the Local Planning Authority consider provide important amenity value in the locality.

#### **08 Construction Management Plan**

No development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The Construction Management Plan shall provide details of:

- (i) the site construction access(es)
- (ii) the parking of vehicles of site operatives and visitors;
- (iii) loading and unloading of plant and materials;
- (iv) storage of plant and materials used in constructing the development;
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing,
- (vi) measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site;
- (vii) measures to control and monitor the emission of dust and dirt during construction;
- (viii) a Site Waste Management Plan;
- (ix) details of the routing of associated HGVs;
- (x) measures to protect existing footpaths and verges; and a means of communication with local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and residential amenity.

#### **09 Site Levels**

Prior to the commencement of the development, details of the existing and proposed levels of the site including the finished floor levels of the buildings to be erected and any earth retention measures (including calculations where such features support the adopted highway) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that earth-moving operations, retention features and the final landforms resulting are structurally sound, compliment and not detract from the visual amenity or integrity of existing natural features and habitats.

**10 Unexpected Land Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, works must be halted on that part of the site affected by the unexpected contamination, and it must be reported immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority prior to resumption of the works. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted in writing and approval by the Local Planning Authority.

Reason: To ensure any unknown contaminative features encountered during the development are investigated and remediated to an acceptable standard.

**11 Surface and Foul Water Drainage**

The development hereby approved shall not be commenced on site, until a scheme for the implementation, maintenance and management of a Suitable Surface Water Drainage Scheme and a foul water drainage scheme have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- i. Detailed design of the surface water management system;
- ii. A build programme and timetable for the provision of the critical surface water drainage infrastructure;
- iii. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- iv. Details of adoption responsibilities.

Reason: To ensure the site is development in a manner that will not increase the risk of surface water flooding to the site or surrounding area, in accordance with the guidance within Local Plan Policy ENV4 and the National Planning Policy Framework.

**12 Construction Hours**

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

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

**13 Open Access**

Open access ducting to facilitate fibre and internet connectivity shall be provided from the homes to the public highway.

Reason: To ensure that infrastructure is provided to facilitate fibre connections to all new development in accordance with Policy TI3 of the Stockton-on-Tees Local Plan.

**14 Ecology**

All ecological mitigation measures shall be carried out in accordance with the recommendations and mitigation (section 6.0) within the submitted ecological appraisal conducted by OS Ecology LTD received by the Local Planning Authority on the 2<sup>nd</sup> April 2024.

Reason: To conserve protected species and their habitat.

### **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.

#### **Informative: Tree Standards**

The following British Standards should be referred to:

- a. BS: 3882:2015 Specification for topsoil
- b. BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
- c. BS: 8601:2013 Specification for subsoil and requirements for use
- d. BS: 5837 (2012) Trees in relation to demolition, design and construction –Recommendations
- e. BS: 3998:2010 Tree work – Recommendations
- f. BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- g. BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- h. BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- i. BS: 4043:1989 Recommendations for Transplanting root-balled trees

#### **Informative: Northern Gas Networks**

There may be apparatus in the area that may be at risk during construction works and NGN require the promoter of these works to contact NGN directly to discuss their requirements in detail. Should diversionary works be required these will be fully chargeable.

#### **Informative: In a Smoke Control Zone**

As the property is within a smoke control area the occupant is to comply with the following:

- Only burn authorised fuels- a list of these can be found on the following link <http://smokecontrol.defra.gov.uk/fuels.php?country=e>
- Certain types of coal and wood can be burnt in smoke control areas but these are only to be burnt on DEFRA approved appliances; a list of these can be found on the following link <http://smokecontrol.defra.gov.uk/appliances.php?country=e>

The appliance is to be installed by an approved contractor and certificates of the work to be submitted to the Local Authority.

#### **Informative: Noise from construction activities**

Compliance with the recommendations set out in BS5228:2009+A1:2014 'Code of practice for Noise and Vibration Control on Construction and Open Sites' including measures to control and limit noise emissions and vibration levels should be complied with to the satisfaction of the Local Authority.

Noise levels will not exceed 55 dB LAeq (1 hr) during the daytime (07:00 – 23:00); or 45 dB LAeq (1 hr) during the night-time (23:00 – 07:00); or 60 dB L<sub>Amax</sub> (15 mins) during the night-time (23:00 – 07:00) as determined by measurement or calculation at free field locations representing facades of nearby residential dwellings. In relation to the effects of construction vibration upon the surroundings, the Peak Particle Velocity (PPV) should be less than 0.5 mm/s, measured using BS 5228 2009, Part 2: Vibration (BSI, 2014v).

#### **Informative: Dust Emissions**

A scheme should be provided to control dust emissions, such as dampening down, dust screens and wheel washers to prevent mud being tracked onto the highway. Mobile crushing and screening equipment shall have any appropriate local authority PPC permit required and a copy of this permit available for inspection

### Informative: Reserved Matters

When submitting the application(s) for reserved matters; the reserved matters should include the following details:

"access", means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

"layout" means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

"appearance" means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

"scale" means the height, width and length of each building proposed within the development in relation to its surroundings;

"landscaping", in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

### **SITE AND SURROUNDINGS**

1. The application site, hereby referred to as the site, is a large section of land approximately 0.6ha in size which is currently undeveloped comprising of large Plantation Trees.
2. The site as existing is undeveloped, however, previous extant planning permissions for residential housing developments cover the area of the site (Ref: 13/0342/EIS) and would eventually be accessed via Stoney Wood Drive once built out.
3. To the north of the site are residential dwellings situated on Maynard Grove. To the east are residential dwellings situated on The Plantations. To the south and west remain largely undeveloped at present, however, extant planning permissions for large-scale residential developments are currently being built out.

### **PROPOSAL**

4. Outline planning consent with all matters reserved is sought for the erection of 2no dwellinghouses (self-build) with associated detached garages.
5. During the course of the application, several amendments have been made to accommodate and alleviate the concerns of officers regarding the diversion of a watercourse running through the site and an alteration to the site access point.



## **CONSULTATIONS**

6. The following consultation responses have been received as set out below (in summary):-

Highways Transport & Design Manager - Subject to the conditions set out below the Highways Transport and Design Manager raises no objections to the proposals.

### *Highways Comments*

There are no highways objections to the proposals.

### *Landscape & Visual Comments*

Following a site visit and submission of the updated drawing it is now clear that a buffer of existing trees is to be retained along the eastern edge of the site adjacent to the existing houses. Planting alongside the footpath to the north is outside the site boundary, and will therefore also be retained as a green corridor along the footway. It is proposed to underplant the existing buffer with new tree planting, and details should be secured by condition.

Details of hard landscaping and enclosure will be required. A tree protection plan will also be needed prior to commencement of works on site, but this may be secured by condition.

### *Flood Risk Management*

The Lead Local Flood Authority have reviewed the information submitted and have no objection to the proposals.

No works can commence on the watercourse until Land Drainage Consent has been approved by the Lead Local Flood Authority. Consent is separate from the planning process and can take up to 8 weeks to determine.

Environmental Health – No objections should the recommended conditions be implemented.

Natural England – No objections.

Northern Gas Networks – No objections, however, there may be apparatus in the area.

Northumbrian Water – No comment.

## **PUBLICITY**

7. Publicity has been given to the planning application through neighbour notification letters. At the time of writing, there are a total of 21 objectors contributing 26 objections with their comments summarised as below.

### **Objection comments summarised;**

- Concerns regarding privacy
- Overlooking/separation distances
- Devaluation of property
- Deviation from Wynyard Masterplan/Local Plan
- Concerns regarding overdevelopment
- Concerns around water diversion
- Concerns about trees and visual amenity lost
- Concerns around precedent
- Concerns around motivation of profit
- Concerns regarding character of the area
- Concerns regarding highway safety/traffic issues
- Concerns regarding surface water drainage/flood risk
- Concerns regarding light pollution

- Concerns regarding parking
- Concerns around local plan compliance
- Concerns regarding right to a view
- Concerns regarding overshadowing
- Concerns relating to wildlife/ecology
- Concerns regarding construction traffic management
- Concerns regarding existing and future soft landscaping

## **PLANNING POLICY**

8. 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 Stockton on Tees Borough Council Local Plan 2019.
9. Section 143 of the Localism Act came into force on the 15 January 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 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.

### **National Planning Policy Framework**

10. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
11. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
  - approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii. 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.

**Paragraph 115.** Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

**Paragraph 135.** Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

**Paragraph 136.** Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

### **Local Planning Policy**

12. The following planning policies are considered to be relevant to the consideration of this application.

#### **Policy SD1 - Presumption in favour of Sustainable Development**

1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

3. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise - taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;
- or,
- Specific policies in that Framework indicate that development should be restricted.

#### **Policy SD2 – Strategic Development Needs**

1. The following strategic growth needs have been identified for the period 2017/18 to 2031/32, which will be met through new sustainable development and infrastructure provision that integrates positively with the natural, built and historic environment of the Borough. Housing

2. To meet the housing requirement of 10,150 new homes over the plan period a minimum of: a. 720 dwellings (net) will be delivered per annum from 2017/18 to 2021/22. b. 655 dwellings (net) will be delivered per annum from 2022/23 to 2031/32.

3. The Strategic Housing Market Assessment for Stockton-on-Tees Borough identifies that there are specific needs with regard to housing type and tenure. This includes delivering homes to meet the needs of the ageing population.

#### **Policy SD3 - Housing Strategy**

1. The housing requirement of the Borough will be met through the provision of sufficient deliverable sites to ensure the maintenance of a rolling five year supply of deliverable housing land. Should it become apparent that a five year supply of deliverable housing land cannot be identified at any point within the plan period, or delivery is consistently falling below the housing requirement, the Council will work with landowners, the development industry and relevant stakeholders and take appropriate action in seeking to address any shortfall.
2. The following are priorities for the Council:
  - a. Delivering a range and type of housing appropriate to needs and addressing shortfalls in provision; this includes the provision of housing to meet the needs of the ageing population and those with specific needs.
  - b. Providing accommodation that is affordable.
  - c. Providing opportunities for custom, self-build and small and medium sized house builders.
3. The approach to housing distribution has been developed to promote development in the most sustainable way. This will be achieved through:
  - a. Supporting the aspiration of delivering housing in the Regenerated River Tees Corridor (as identified on the Policies Map) in close proximity to Stockton Town Centre. Key regeneration sites which provide major opportunities for redevelopment include: Queens Park North, Victoria Estate, Tees Marshalling Yard and Land off Grangefield Road.
  - b. Supporting residential development on sites within the conurbation as defined by the limits to development which comprises the main settlements of Stockton, Billingham, Thornaby, Ingleby Barwick, Eaglescliffe and Yarm.
  - c. Creating a Sustainable Urban Extension to West Stockton.
  - d. Promoting major new residential development at Wynyard leading to the area becoming a sustainable settlement containing general market housing and areas of executive housing in a high-quality environment.
  - e. Supporting residential development in villages (as shown on the Policies Map) through the recognition of existing commitments and new build within the limits to development where the land is not allocated for another purpose.

#### **Policy SD5 - Natural, Built and Historic Environment**

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:
  - a. Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.
  - c. Protecting and enhancing green infrastructure networks and assets, alongside the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species.
  - d. Enhancing woodlands and supporting the increase of tree cover where appropriate.
  - j. Ensuring development proposals are responsive to the landscape, mitigating their visual impact where necessary. Developments will not be permitted where they would lead to unacceptable impacts on the character and distinctiveness of the Borough's landscape unless the benefits of the development clearly outweigh any harm. Wherever possible, developments should include measures to enhance, restore and create special features of the landscape.
  - l. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of ground, air, water, light or noise pollution or land instability. Wherever possible proposals should seek to improve ground, air and water quality.
2. Meet the challenge of climate change, flooding and coastal change through a variety of methods including:
  - a. Directing development in accordance with Policies SD3 and SD4.
  - b. Delivering an effective and efficient sustainable transport network to deliver genuine alternatives to the private car.

- c. Supporting sustainable water management within development proposals.
- d. Directing new development towards areas of low flood risk (Flood Zone 1), ensuring flood risk is not increased elsewhere, and working with developers and partners to reduce flood risk.
- e. Ensuring development takes into account the risks and opportunities associated with future changes to the climate and are adaptable to changing social, technological and economic conditions such as incorporating suitable and effective climate change adaptation principles.
- f. Ensuring development minimises the effects of climate change and encourage new development to meet the highest feasible environmental standards.
- g. Supporting and encouraging sensitive energy efficiency improvements to existing buildings.
- h. Supporting proposals for renewable and low carbon energy schemes including the generation and supply of decentralised energy.

### **Policy SD8 – Sustainable Design Principles**

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:

- a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
  - b. Landscape character of the area, including the contribution made by existing trees and landscaping;
  - c. Need to protect and enhance ecological and green infrastructure networks and assets;
  - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
  - e. Privacy and amenity of all existing and future occupants of land and buildings;
  - f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
  - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
  - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.
4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

### **Policy H1 – Housing Commitments and Allocations**

1. To deliver the housing requirement and to maintain a rolling five year supply of deliverable housing land, the Council have allocated sites identified within this policy. The majority of the new homes will be delivered through existing commitments (sites with planning permission identified within point 2) with the remainder of new homes being delivered through allocations at:

- d. Wynyard Sustainable Settlement.

### **Policy H3 - Wynyard Sustainable Settlement**

Proposals for the growth of Wynyard Village (south of the A689) and Wynyard Park (North of the A689) will be coordinated to deliver a sustainable settlement. Proposals for development should:

1. Deliver approximately 1,644 new dwellings within Stockton-on-Tees Borough, with 544 dwellings at Wynyard Village (Policy H1.2.W1 and H1.2.W2) and approximately 1,100 dwellings (Policy H1.7) on Wynyard Park.

#### **Policy H4 – Meeting Housing Needs**

1. Sustainable residential communities will be created by requiring developers to provide a mix and balance of good quality housing of appropriate sizes, types and tenures which reflects local needs and demand, having regard to the Strategic Housing Market Assessment, its successor documents or appropriate supporting documents.
6. Provide green infrastructure and open space in accordance with ENV6.
8. Utilise Design Codes detailing important design elements for the development to ensure a consistent approach to quality standards.

#### **Policy T11 – Transport Infrastructure Delivering A Sustainable Transport Network**

11. To assist consideration of transport impacts, improve accessibility and safety for all modes of travel associated with development proposals, the Council will require, as appropriate, a Transport Statement or Transport Assessment and a Travel Plan.
12. The Council and its partners will seek to ensure that all new development, where appropriate, which generate significant movements are located where the need to travel can be minimised, where practical gives priority to pedestrian and cycle movements, provides access to high quality public transport facilities and offers prospective residents and/or users with genuine sustainable transport options. This will be achieved by seeking to ensure that:
  - e. New development incorporates safe and secure layouts which minimises conflict between traffic, cyclists or pedestrians.

#### **Policy T13 - Communications Infrastructure**

7. Developers should demonstrate how proposals for new homes, employment or main town centre uses will contribute to and be compatible with local fibre and internet connectivity.
8. Taking into consideration viability, the Council require developers of new homes, employment or main town centre uses to deliver, as a minimum, on-site infrastructure including open access ducting to industry standards, to enable new premises and homes to be directly served by local fibre and internet connectivity. This on-site infrastructure should be provided from homes and premises to the public highway or other location justified as part of the planning application. Where possible, viable and desirable, the provision of additional ducting will be supported where it allows the expansion of the network.

#### **Policy ENV 1 – Energy Efficiency**

1. The Council will encourage all development to minimise the effects of climate change through meeting the highest possible environmental standards during construction and occupation. The Council will:
  - a. Promote zero carbon development and require all development to reduce carbon dioxide emissions by following the steps in the energy hierarchy, in the following sequence:
    - i. Energy reduction through ‘smart’ heating and lighting, behavioural changes, and use of passive design measures; then,
    - ii. Energy efficiency through better insulation and efficient appliances; then,
    - iii. Renewable energy of heat and electricity from solar, wind, biomass, hydro and geothermal sources; then
    - iv. Low carbon energy including the use of heat pumps, Combined Heat and Power and Combined Cooling Heat and Power systems; then
    - v. Conventional energy.
  - b. Require all major development to demonstrate how they contribute to the greenhouse gas emissions reduction targets set out in Stockton-on-Tees’ Climate Change Strategy 2016; and
  - c. Support and encourage sensitive energy efficiency improvements to existing buildings.
2. Proposals are encouraged where development:
  - a. Incorporates passive design measures to improve the efficiency of heating, cooling and ventilation; and
  - b. Includes design measures to minimise the reliance on artificial lighting through siting, design, layout and building orientation that maximises sunlight and daylight, passive ventilation and avoids overshadowing.

3. All developments of ten dwellings or more, or of 1,000 sq m and above of gross floor space, will be required to:
  - a. Submit an energy statement identifying the predicted energy consumption and associated CO<sub>2</sub> emissions of the development and demonstrating how the energy hierarchy has been applied to make the fullest contribution to greenhouse gas emissions reduction; and
  - b. Achieve a 10% reduction in CO<sub>2</sub> emissions over and above current building regulations. Where this is not achieved, development will be required to provide at least 10% of the total predicted energy requirements of the development from renewable energy sources, either on site or in the locality of the development.

#### **Policy ENV4 - Reducing and Mitigating Flood Risk**

1. All new development will be directed towards areas of the lowest flood risk to minimise the risk of flooding from all sources, and will mitigate any such risk through design and implementing sustainable drainage (SuDS) principles.
2. Development on land in Flood Zones 2 or 3 will only be permitted following:
  - a. The successful completion of the Sequential and Exception Tests (where required); and
  - b. A site specific flood risk assessment, demonstrating development will be safe over the lifetime of the development, including access and egress, without increasing flood risk elsewhere and where possible reducing flood risk overall.
3. Site specific flood risk assessments will be required in accordance with national policy.
4. All development proposals will be designed to ensure that:
  - a. Opportunities are taken to mitigate the risk of flooding elsewhere;
  - b. Foul and surface water flows are separated;
  - c. Appropriate surface water drainage mitigation measures are incorporated and Sustainable Drainage Systems (SuDS) are prioritised; and
  - d. SuDS have regard to Tees Valley Authorities Local Standards for Sustainable Drainage (2015) or successor document.
5. Surface water run-off should be managed at source wherever possible and disposed of in the following hierarchy of preference sequence:
  - a. To an infiltration or soak away system; then,
  - b. To a watercourse open or closed; then,
  - c. To a sewer.
6. Disposal to combined sewers should be the last resort once all other methods have been explored.
7. For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1-in-1 year rainfall event and the 1-in-100 year rainfall event should be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event. For greenfield developments, the peak runoff rate from the development to any highway drain, sewer or surface water body for the 1-in-1 year rainfall event and the 1-in-100 year rainfall event should never exceed the peak greenfield runoff rate for the same event.
9. Sustainable Drainage Systems (SuDS) should be provided on major development (residential development comprising 10 dwellings or more and other equivalent commercial development) unless demonstrated to be inappropriate. The incorporation of SuDS should be integral to the design process and be integrated with green infrastructure. Where SuDS are provided, arrangements must be put in place for their whole life management and maintenance.
10. Through partnership working the Council will work to achieve the goals of the Stockton-on-Tees Local Flood Risk Management Strategy and the Northumbria Catchment Flood Management Plan. This will include the implementation of schemes to reduce the risk of flooding to existing properties and infrastructure. Proposals which seek to mitigate flooding, create natural flood plains or seek to enhance and/or expand flood plains in appropriate locations will be permitted.
11. To reduce the risk of flooding the Council is working in partnership with the Environment Agency to deliver a Flood Alleviation Scheme on Lustrum Beck.

### **Policy ENV5 – Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity**

1. The Council will protect and enhance the biodiversity and geological resources within the Borough. Development proposals will be supported where they enhance nature conservation and management, preserve the character of the natural environment and maximise opportunities for biodiversity and geological conservation particularly in or adjacent to Biodiversity Opportunity Areas in the River Tees Corridor, Teesmouth and Central Farmland Landscape Areas.
2. The Council will preserve, restore and re-create priority habitats alongside the protection and recovery of priority species.
3. Ecological networks and wildlife corridors will be protected, enhanced and extended. A principal aim will be to link sites of biodiversity importance by avoiding or repairing the fragmentation and isolation of natural habitats.
4. Sites designated for nature or geological conservation will be protected and, where appropriate enhanced, taking into account the following hierarchy and considerations:
  - c. Locally designated sites: Development that would have an adverse effect on a site(s) will not be permitted unless the benefits of the development clearly outweigh the harm to the conservation interest of the site and no reasonable alternatives are available. All options should be explored for retaining the most valuable parts of the sites interest as part of the development proposal with particular consideration given to conserving irreplaceable features or habitats, and those that cannot readily be recreated within a reasonably short timescale, for example ancient woodland and geological formations. Where development on a site is approved, mitigation or where necessary, compensatory measures, will be required in order to make development acceptable in planning terms.
5. Development proposals should seek to achieve net gains in biodiversity wherever possible. It will be important for biodiversity and geodiversity to be considered at an early stage in the design process so that harm can be avoided and wherever possible enhancement achieved (this will be of particular importance in the redevelopment of previously developed land where areas of biodiversity should be retained and recreated alongside any remediation of any identified contamination). Detrimental impacts of development on biodiversity and geodiversity, whether individual or cumulative should be avoided. Where this is not possible, mitigation and lastly compensation, must be provided as appropriate. The Council will consider the potential for a strategic approach to biodiversity offsetting in conjunction with the Tees Valley Local Nature Partnership and in line with the above hierarchy.
7. Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.

### **Policy ENV6 - Green Infrastructure, Open Space, Green Wedges and Agricultural Land**

1. Through partnership working, the Council will protect and support the enhancement, creation and management of all green infrastructure to improve its quality, value, multi-functionality and accessibility in accordance with the Stockton-on-Tees Green Infrastructure Strategy and Delivery Plan.
2. Where appropriate, development proposals will be required to make contributions towards green infrastructure having regard to standards and guidance provided within the Open Space, Recreation and Landscaping SPD or any successor. Green infrastructure should be integrated, where practicable, into new developments. This includes new hard and soft landscaping, and other types of green infrastructure. Proposals should illustrate how the proposed development will be satisfactorily integrated into the surrounding area in a manner appropriate to the surrounding townscape and landscape setting and enhances the wider green infrastructure network.
3. The Council will protect and enhance open space throughout the Borough to meet community needs and enable healthy lifestyles. The loss of open space as shown on the Policies Map, and any amenity open space, will not be supported unless:



- a. it has been demonstrated to be surplus to requirements; or
- b. the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c. the proposal is for another sports or recreational provision, the needs for which, clearly outweigh the loss; or
- d. the proposal is ancillary to the use of the open space; and
- e. in all cases there would be no significant harm to the character and appearance of the area or nature conservation interests.

### **Policy ENV7 – Ground, Air, Water, Noise and Light Pollution**

1. All development proposals that may cause groundwater, surface water, air (including odour), noise or light pollution either individually or cumulatively will be required to incorporate measures as appropriate to prevent or reduce their pollution so as not to cause unacceptable impacts on the living conditions of all existing and potential future occupants of land and buildings, the character and appearance of the surrounding area and the environment.

4. Where future users or occupiers of a development would be affected by contamination or stability issues, or where contamination may present a risk to the water environment, proposals must demonstrate via site investigation/assessment that:

- a. Any issues will be satisfactorily addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact upon human health and the environment; and
- b. Demonstrate that development will not cause the site or the surrounding environment to become contaminated and/or unstable.

### **Supplementary Planning Document 1: Sustainable Design Guide**

#### **4.7 Character and Design**

4.7.4 New dwellings should be designed with significant attention given to proportions, materials and detailing, in order to provide architectural quality and to respect existing character. Porches, recessed garages, bay windows and other simple details can add a third dimension to otherwise flat-fronted dwellings, and chimneys may also be used to articulate rooflines. Such details will add architectural interest, however, form should follow function and they should not be used where they will serve little or no purpose other than aesthetic.

4.7.6 Particular consideration should be paid to the design of buildings in corner locations. These properties will be prominent within the development and can aid navigation through the site. They can also provide greater security by having windows that face in different directions and by preventing gable walls from facing the street.

#### **4.8 Privacy and Amenity**

4.8.2 The Council will normally expect a minimum of 21 metres separation to be provided between the main habitable room windows on facing residential properties. Where main habitable room windows will face windows of secondary rooms, such as bathrooms and hallways, or a blank gable, there should normally be a gap of at least 11 metres between the two properties. However, it is advisable to seek pre application advice, should a development involve this relationship, as the required separation distance will depend upon individual circumstances and may need to be increased.

### **MATERIAL PLANNING CONSIDERATIONS**

13. The main planning considerations of this application are the principle of development, the impacts on the character of the surrounding area, the impact on the amenity of the surrounding residential occupiers, highway safety related matters, ecology, flood risk and other material planning considerations.

#### **Principle of Development**

14. The National Planning Policy Framework (2019) is clear in the purpose of the planning system which is to contribute to the achievement of sustainable development. Achieving

sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The NPPF also includes a number of core planning principles, one of which is the need to identify and meet housing needs as well as respond positively to wider opportunities for growth.

15. The relevant Local Plan Policies under consideration within this application are policies H1 and H3. The Wynyard settlement forms a significant portion of the Councils identified 5 year housing supply and remains a high priority area in order to meet and maintain a five-year supply of housing land.
16. The site is located within the overarching boundary of a previous planning approval for approximately 500no homes (Ref: 13/0342/EIS). The original outline consent was capped at 500 dwellings. Subsequently, reserved matters planning permissions have been granted for the majority of these 500no homes, leaving a pocket of land where the principle of development has been accepted.
17. This issue was considered in the Wynyard Masterplan which identified that:

‘For completeness the Strategic Framework Plan provides an indicative layout of how the residual area of the planning commitment at Wynyard Village can be developed, as well as opportunities for a relocated Local Centre. This area falls within the planning commitment for Wynyard Village which has previously been limited to 500 dwellings due to highway capacity. Development would only be allowed to come forward where it is appropriately designed, that highway capacity has been demonstrated, and that the proposal contributes to the delivery of required infrastructure.’

18. As detailed with the report below, the Highways Transport and Design Manger has not raised any objection to the highway’s capacity and impact. In addition to this, the development is classified as minor development and does not meet the requisite requirement to consult with National Highways as per the requirements of the Development Management Procedure Order 2015. It is therefore considered that the principle for residential housing on this land has been accepted.

#### Impact upon the Character of the Surrounding Area

19. The National Planning Policy Framework paragraph 135 requires that developments should not only maintain a strong sense of place but should improve the quality of the area. Developments should also be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
20. The adopted Local Plan encourages high standards of design with Local Planning Policy SD8 setting out that new developments should be appropriate to the context of the surrounding area and be of an appropriate style, proportion and materials to the main building.
21. The application site is located within an area marked for new residential development (Ref: 13/0342/EIS) and lies within a boundary for approximately 500no homes; at the time of writing, this development has substantially progressed. To the north and to the east of the site lie existing and established residential dwellings such as The Plantations.
22. Although the existing character of the immediate site is that of woodland and partial open space, the site is surrounded by residential development and the premise of 2no dwellings in this location is not considered to appear out of keeping with existing and proposed developments for this area of Wynyard.

23. As this in an outline consent, the finer details of height, design and materials can be controlled through the reserved matters application. The submitted design code makes reference to this in some detail and in principle could be appropriate in terms of reflecting the character of the existing residential properties for this area. However, given that the site would be a prominent feature point when transitioning through one part of the estate to another on the main Spine Road, further details in relation to the Design Code are required to ensure a satisfactory form of development, and a planning condition is recommended to control this aspect.
24. A woodland buffer is positioned to the eastern portion of the site which would provide a degree of screening between the proposed dwellings and the dwellings sited on The Plantations. Concerns have been raised by neighbouring residents with regards to the loss of trees on site and although trees have been removed a buffer of trees approximately 10m in depth is retained at the site. However, the existing trees and those removed from the site are considered to be of a low-quality plantation species, with most that were removed either dying or damaged.
25. Notwithstanding the above, the Council's Landscape Officer has visited the site and considers that a replacement scheme would provide a greater mix of woodland species that would provide a denser buffer with underplanting which would over time provide a more appropriate screening mechanism between the dwellings to The Plantations and the proposed dwellings. Given the requirement for this buffer landscaping a planning condition is therefore recommended.
26. It is conceded that the removal of trees on site in the short term would negatively impact upon the character of the area. However, the revised planting scheme along with the implementation of under storey planting would provide a sympathetic and appropriate approach to providing a tree buffer within a residential curtilage and ensuring that the overall character of the area is retained. It is therefore considered that subject to an appropriate forthcoming planting scheme, the premise of the partial removal and understorey planting would be acceptable in this instance.

#### Impact upon the Amenity

27. Planning Policy SD8 and NPPF Paragraph 135 seek to provide sufficient levels of privacy and amenity for all existing and future occupants of land and buildings.
28. The Council's Householder SPD1(4.8) provides guidance on appropriate separation distances between residential properties with a minimum of 21 metres separation distance between the main habitable room windows and a separation distance of 11 metres where main habitable room windows will face windows of secondary rooms or blank elevations. Such a physical separation along with the scale and siting of the proposed dwelling would ensure that the amenity of the respective occupiers would be safeguarded with regards to privacy, light and not resulting in an overbearing presence.
29. The closest neighbouring dwellings to the proposed dwellings would be the residential properties to the east (The Plantations). Therefore, separation distances have been calculated principally to these dwellings. An indicative site plan has been provided which shows that separation distances between the proposed dwellings and dwellings on The Plantations at its minimum distance are approximately 27 metres away.
30. The separation distances between each dwelling, Plots 1 & 2, are in excess of 21 metres and it is considered that the amenity of the future occupiers could be secured.
31. Notwithstanding the above, as this is an outline application, the siting of residential development can be assessed in full at the reserved matters stage against technical

standards. However, in principle it is considered that satisfactory distances can be achieved subject to appropriate positioning of these dwellings and has been controlled by condition to mitigate potential for overlooking, overbearing or overshadowing impacts. Window positions can also be controlled and so the provision of 2no dwellings on this site is considered to be acceptable.

32. As discussed within the character section of this report, a woodland buffer would be retained and further under storey planting secured which would mitigate amenity concerns by providing a physical buffer between the proposed dwellings and the adjacent residential properties. It is considered that the existing trees on site provide minimal screening benefits due to their physical form with branch and leaf coverage within the tall canopy. A smaller, more appropriate under storey planting is considered to provide a more suitable screening mechanism for the site and the surrounding sites.
33. The Environmental Health Unit have assessed the application and have no objections to the proposal subject to the relevant conditions being implemented.

#### Highway Safety

34. Concerns have been raised by neighbouring residents regarding the impact on traffic generation, vehicular access and highway safety. Whilst these concerns are noted, the implementation of the access as shown and the limited additional traffic that proposed 2no dwellings would generate, would not adversely affect the wider highway network, nor would it have an adverse impact on pedestrian and highway safety.
35. Revised plans were sought through the planning process to limit the number of access points onto Stoney Wood Drive, from 2no access points to 1no access point which was considered to be out of character with the surrounding developments. The Highways Transport & Design Manager is satisfied that the amendment to the access is suitable and whilst the illustrative plans comply with the SPD in terms of the size of the car parking spaces and the proposal would therefore be in accordance with NPPF paragraph 115, this can be further addressed through the submission of the Reserved Matters.
36. Subject to the imposition of the recommended conditions on the decision notice, it is considered that the proposed development would provide suitable access and would not have an adverse impact on the safety of the highway network.

#### Ecology

37. Comments received have suggested that the proposed development would result in a loss of habitat and cause harm to the ecology within the area. An Ecology Appraisal has been conducted for the site, the report concludes that the site is of low ecological value, however a number of mitigation, compensation and enhancement measures have been recommended. It is recommended that conditions are imposed on an approval in support of the recommendation of the ecological appraisal. . With respect to any trees and hedges removed, replacement trees and landscaping would be re-provided, which would re-provide habitat in this area. Subject to the recommended conditions, the proposed development is considered to be acceptable.
38. The mandatory requirements for BNG are set to come into effect from February 2024 which requires developers to provide a minimum of 10% net gain in biodiversity measured in accordance with Biodiversity Metric 3.0. Whilst a net positive biodiversity gain would be welcomed for the proposed development; there is no mandatory requirement by developers to provide BNG for this application at this time.

### Flood Risk

39. Residents have raised concerns with respect to existing drainage issues within the wider area and have also suggested that the removal of trees on site would remove a natural drainage solution. These measures have been controlled via planning condition and will be considered at subsequent discharge of conditions applications.
40. As existing, an open watercourse flows through the site. Through negotiations with the applicant, the line of the existing watercourse has been diverted away from the proposed siting of the dwellings and running parallel between Stoney Wood Drive and the western curtilage of the plots. The red line boundary of the site was extended, and the relevant statutory consultations have taken place to facilitate the diversion of the culvert.
41. The Lead Local Flood Authority have reviewed the amendments to the scheme and have no objections to the proposal. It is therefore considered that this aspect of the development is acceptable.

### Nitrate Neutrality

42. As advised by Natural England, the Wynyard site falls out of scope of the requirements of Nutrient Neutrality. The Billingham/Seaton Carew Wastewater Treatment Works discharge via a long sea outfall to the North Sea. Therefore, a significant effect on the Teesmouth & Cleveland Coast SPA and Ramsar site from discharges of nitrates from new development to Billingham/ Seaton Carew Wastewater Treatment Works can be excluded.
43. Notwithstanding the above, the requirement to discharge surface and foul water conditions will be controlled via planning conditions attached to this outline consent.

### Other Matters

44. Comments raised regarding devaluation of property and a right to a view are not a material planning consideration and will not be considered.
45. Comments received have suggested that the development of the site would set a precedent for similar proposals to come forward. Whilst the comments are noted, it is considered that the application presents a set of site-specific circumstances. Each application thereafter would be assessed on its own merits.

## **CONCLUSION**

46. Given the indicative drawings provided, it is considered that the proposal can satisfactorily accommodate the additional two dwellings within the site without affect the character of the area, amenity of neighbouring residents or highway safety. It is recommended that the application be Approved with Conditions for the reasons specified above.

## **ASSISTANT DIRECTOR OF INCLUSIVE GROWTH AND DEVELOPMENT**

**Contact Officer Joe Port. Telephone No. 01642 524362**

### **WARD AND WARD COUNCILLORS**

|                        |                                  |
|------------------------|----------------------------------|
| <b>WARD</b>            | <b>Northern Parishes</b>         |
| <b>Ward Councillor</b> | <b>Councillor Vanessa Sewell</b> |
| <b>Ward Councillor</b> | <b>Councillor John Gardner</b>   |

## **IMPLICATIONS**

### **Financial Implications:**

Not Applicable.

**Environmental Implications:** Matters relating to visual impacts, including the retention of trees/landscaping and ecology have been considered in the report above.

**Human Rights Implications:**

Not Applicable.

**Community Safety Implications:**

Not Applicable.

**Supplementary Planning Documents**

SPD1 – Sustainable Design Guide

SPD3 – Parking Provision for Developments

**Background Papers:**

National Planning Policy Framework

Stockton on Tees Local Plan Adopted 2019

Wynyard Masterplan Adopted 2019

SITE AREA - 0.722 Ha



| No. | Description | Date | Drawn | Checked | Date |
|-----|-------------|------|-------|---------|------|
|     |             |      |       |         |      |

PLANNING

job / client

WYNWARD SOUTH

CAMERON HALL

drawing title

SELF BUILD PLOTS

| project no. | drawing no. | revision   | dno      |
|-------------|-------------|------------|----------|
| CPT-320     | SB-01       | C          | 24.11.22 |
| scale       | drawn by    | sheet size |          |
| 1:1250      | ST          | A1         |          |

3701  
Myoral Way  
Team Valley Trading Estate  
Gateshead  
NE11 0RT  
0191 - 4661811  
info@cpt-architecture.co.uk



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**CONCEPT ARCHITECTURE**

320J  
Mayoral Way  
Team Valley Trading Est.  
Gateshead  
NE11 0RT  
0191 - 4661611  
info@cpt-group.co.uk

| Rev | Description | Drawn | Date | Checked | Date |
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| JOB / CLIENT: | SELF BUILD PLOTS - WYNYARD SOUTH<br>CAMERON HALL DEVELOPMENTS |
| DRWG TITLE:   | SITE PLAN   |
| DRAWN BY:     | ST  |
| DATE:         | 30.01.23  |

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**CONCEPT ARCHITECTURE**

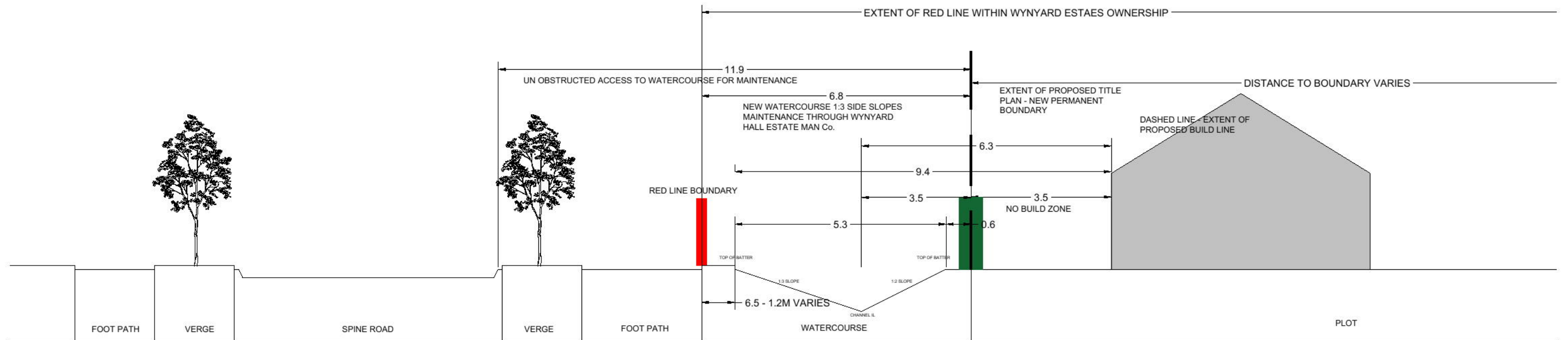
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Mayoral Way  
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Gateshead  
NE11 0RT  
0191 - 4661611  
info@cpt-group.co.uk

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| JOB / CLIENT: | SELF BUILD PLOTS - WYNYARD SOUTH<br>CAMERON HALL DEVELOPMENTS |
| DRWG TITLE:   | SITE PLAN WITH INDICATIVE FOOTPRINT                           |
| DRAWN BY:     | ST  |
| DATE:         | 30.01.23  |

| PLANNING       |                |           |
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**CROSS SECTION 1-1**

**CONCEPT ARCHITECTURE**

320J  
Mayoral Way  
Team Valley Trading Est.  
Gateshead  
NE11 0RT  
0191 - 4661611  
info@cpt-group.co.uk

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| JOB / CLIENT: | SELF BUILD PLOTS - WYNYARD SOUTH<br>CAMERON HALL DEVELOPMENTS |
| DRWG TITLE:   | WATER COURSE SECTION  |
| DRAWN BY:     | ST  |
| DATE:         | 30.01.23  |

| PLANNING       |                |           |
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| CPT-320        | PL10           |           |
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**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**10 April 2024**

**REPORT FOR ASSISTANT DIRECTOR OF  
INCLUSIVE GROWTH AND DEVELOPMENT**

**23/0888/OUT**

**Land Off Stoney Wood Drive, Wynyard, TS22 5SN**

**Outline application with all matters reserved for the erection of 2no dwellinghouses and detached garages.**

**Expiry Date: 12 April 2024**

**SUMMARY**

Since the writing of the original report, Condition number 6 (Buffer Landscaping) has been updated and the revised condition is detailed below.

In addition, correspondence has been received from the Wynyard Residents Association a copy of which is attached to this report.

In summary, the comments received do not alter the original recommendation of approval with conditions and any issues raised are addressed within this update report

**RECOMMENDATION**

**That planning application 23/0888/OUT be approved subject to the following conditions and informative:**

**06 Buffer Landscaping**

No development shall commence until a structure plan with full details of a buffer landscaping scheme to the eastern boundary of the site has been submitted to and been approved in writing by the Local Planning Authority.

The associated scheme will include a detailed planting plan and specification of works (including associated underplanting) indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for tree pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans.

All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development and shall be completed to the satisfaction of the Local Planning Authority. The landscape buffer shall thereafter be retained and maintained in accordance with the agreed scheme for the life of the development.

Reason: To ensure a high quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhances bio diversity.

### **MATERIAL PLANNING CONSIDERATIONS**

1. Comments have been received from WRA regarding housing densities, deviations from outline consents and development on green wedge.
2. Regarding the site falling within Green Wedge. The site does not fall within the green wedge designation of the local plan and nor does it fall within designated open space. It is acknowledged that at present the site is open in character with woodland planting and contributes positively to the green pockets within the estate. The site would, via planning conditions, retain existing woodland planting on the site additional landscaping would be provided. It is therefore considered that a verdant landscape character can be retained which is in keeping with other areas of green open space and woodland planting in the surrounding area.
3. Comments regarding this area of land being removed from iterations of previously approved plans for the 500no homes application (Ref: 13/0342/EIS) which indicated that it was previously designated for housing have been taken into consideration. As the wider consent for the 500no homes was an outline approval, all layouts are therefore indicative, and their layouts can be subject to change.
4. Whilst it is recognised that the additional approved and proposed dwellings will increase the overall density across the site, where all those applications to be approved it would increase the number of properties from 500 to 767. This would mean an overall density change from 6 dwellings per hectare to just over 9 dwellings per hectare. This is considered to be low density and in keeping with the aims and aspirations of the Wynyard Masterplan in maintaining Wynyard Village as an executive low-density development.
5. It is noted that the site, within Stockton-on-Tees Local Plan and the Wynyard Masterplan, is allocated by Local Plan policy H1 for housing. In conjunction with the site falling within an area of land designated for housing allocation, the precedent for housing at the site within the red line boundary of the 500no homes site, and the acceptable housing densities for the site and the wider area of Wynyard, it is considered that the proposal for outline consent for 2no dwellings on this plot of land is acceptable.

### **CONCLUSION**

6. Overall, it is considered that the additional comments will not affect the recommendation of the scheme and the application is recommended for approval subject to the conditions outlined earlier in this report.



## Wynyard Residents Association additional comments

### 23/0888/OUT

1. This application is before Committee 10<sup>th</sup> April 2024. The history of the submission of 13/0342/EIS should be considered in determining this application. Cameron Hall Developments, the developer, proposed 650 homes on 85 hectares. This was scaled back to 500 homes on 85 hectares. Adjustments were made as shown in the table. The drawings below show both layouts.

| DAS 11 <sup>th</sup> February 2013 |        |            | PLO2 and planning statement 14 <sup>th</sup> February 2014 |        |            | Adj.       |
|------------------------------------|--------|------------|--|--------|------------|------------|
| Cell Number                        | DPH    | Max Total  | Cell Number  | DPH    | Max Total  | Reduction  |
| R1                                 | 12     | 51         | R1   | 10     | 40         | -11        |
| R2                                 | 11     | 72         | R2   | 9      | 55         | -17        |
| R3                                 | 12     | 44         | R3   | 10     | 53         | +9         |
| R4                                 | 11     | 72         | R4   | 9      | 65         | -7         |
| R5                                 | 8      | 78         | R5   | 5      | 46         | -32        |
| R6                                 | 16     | 52         | R6   | 13     | 45         | -7         |
| R7                                 | -      | 3          | Removed  |        |            | -3         |
| R8                                 | School | 0          | R8   | School |            | 0          |
| R9                                 | 17     | 80         | Becomes R7   | 13     | 58         | -22        |
| R10                                | 18     | 192        | Becomes R8   | 15     | 138        | -54        |
| R11                                | -      | 6          | Removed  |        |            | -6         |
| <b>Totals</b>                      |        | <b>650</b> |  |        | <b>500</b> | <b>150</b> |

### DAS Area Plan 11<sup>th</sup> February 2013 - 650 Homes

developmentmanagement.stockton.gov.uk

13/0342/EIS | Outline application for the construction of up to 500 houses, PH...

https://www.developmentmanagement.stockton.gov.uk/online-applications/file...

#### 6.2 STRATEGIC LANDSCAPE / PUBLIC OPEN SPACE

The Masterplan objective is to achieve circa 30% public open space and 70% developable residential / mixed use areas. This is significantly higher than the industry norm for residential development and will have an effect on the quality and character, particularly as the public open space will be concentrated on green corridors providing strong movement linkages rather than set aside green space with no particular functions. This is entirely in keeping with the Wynyard Village Design Guide and allows for the incorporation of a landscape led solution reinforcing existing landscape features, watercourses and movement patterns at a strategic level.

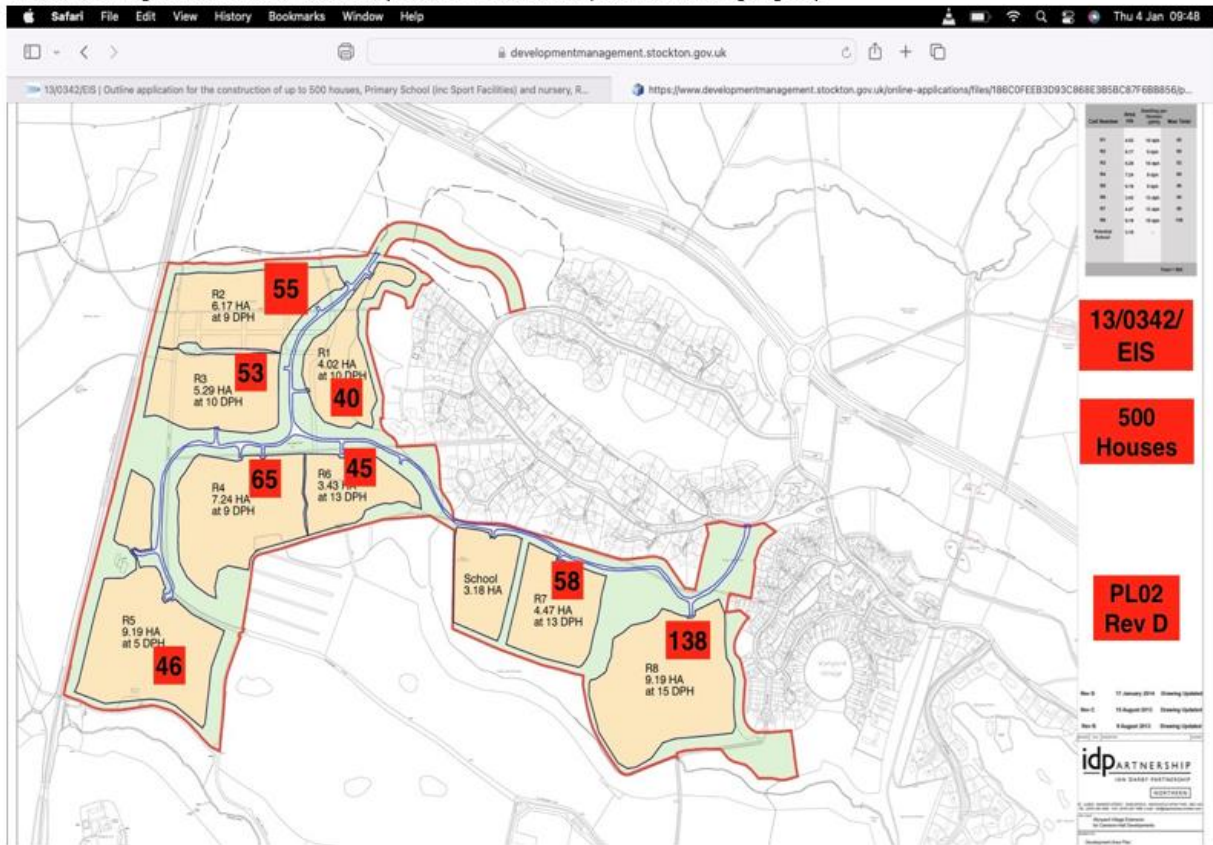
The delivery and phasing of strategic landscaping and public open space will be subject to further more detailed work in the Reserved Matters stage.

| Cell Number | Dwelling per Hectare (DPH) | Max Total          |
|-------------|----------------------------|--------------------|
| R1          | 12 dph                     | 61                 |
| R2          | 11 dph                     | 72                 |
| R3          | 12 dph                     | 44                 |
| R4          | 11 dph                     | 72                 |
| R5          | 9 dph                      | 78                 |
| R6          | 16 dph                     | 52                 |
| R7          | -                          | 3                  |
| R8          | -                          | 0                  |
| R9          | 17 dph                     | 80                 |
| R10         | 18 dph                     | 192                |
| R11         | -                          | 6                  |
|             |                            | <b>Total = 650</b> |

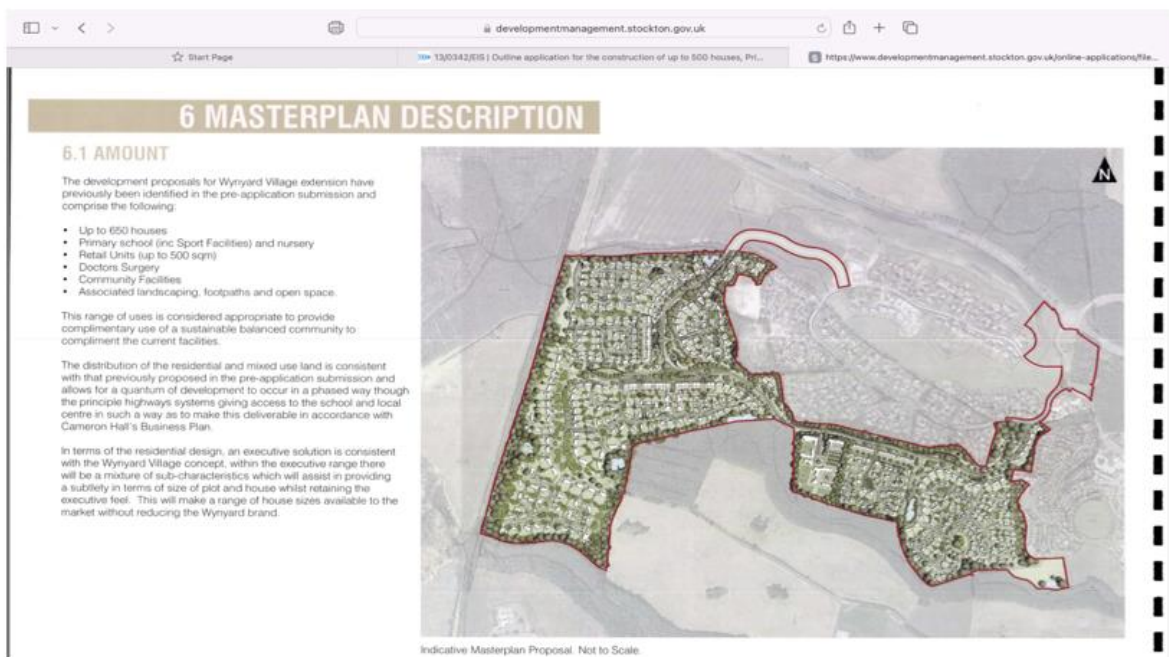
GROSS Area = 85.52HA (100%)  
 NET Area = 55.32HA (64.6%)  
 (including Roads 3.39HA)  
 POS = 30.2HA (35.4%)

Development Area Plan. Not to Scale.

PLO2/Planning Statement 21<sup>st</sup> February 2014 - 500 Homes (Authors red highlights)



2. In scaling back to 500 the densities of each of the R sectors were amended and R7 and R11 were removed altogether. Sector R7 (in the initial submission for 3 houses) has become the application site in 23/0888. The drawing below shows the proposed original layout for 650 homes. Those homes planned for R7 can be seen on the green wedge just to the north of the narrow link joining the two sections of the site.



3. The current application relies upon the planning permission afforded to 13/0342/EIS as a form of justification for approval to be given. The officers' report to committee states.....'*previous extant planning permissions for residential housing developments cover the area of the site (Ref: 13/0342/EIS)....'*
4. This is rather disingenuous. Development of this site was not part of the planning permissions given to 13/0342/EIS. The land forming this site was explicitly excluded from that as can be seen above. It was to remain under the planning permissions as a green wedge.
5. To approve this application would amount to a breach of the planning permission given to 13/0342/EIS.

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**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**10 April 2024**

**REPORT FOR ASSISTANT DIRECTOR OF  
INCLUSIVE GROWTH AND DEVELOPMENT**

**23/2192/X**

**Woodend Court, The Wynd, Wynyard**

**Application to reduce height by 5m, prune side to shape and reduce limbs in by 2-3m to include removal of deadwood to 1no Oak tree (T3), 2no Sycamore trees (T5 and T7 of G1) and 1no Oak tree (T13 of G1), reduce height by 4m and prune sides to shape, reduce limbs in by 2-3m to include removal of deadwood to 3no Oak trees (T4, T11 and T15 of G1), fell 1no Larch tree (T12 of G1) and 1no Hawthorn tree (T14 of G1) and remove crown leaving the stem as a monolith at 6m to 1no Oak tree (T17 of G1) to tree preservation order 458 (00.8.5.455)**

### **SUMMARY**

Approval is sought for works to trees covered by a tree preservation order, which consist of works to reduce the heights and general shape of a series of trees.

There have been a seven objections mainly questioning the reason for the works and whether they are necessary.

The proposed works have been considered by the Councils Principal Tree and Woodland Officer and overall it is considered that the works proposed are acceptable to ensure the safety and future health of the tree group.

The works proposed are therefore recommended for approval as detailed below.

### **RECOMMENDATION**

**That planning application 23/2192/X be approved subject to the following conditions below;**

**1. Time Limit**

The works hereby permitted shall be begun before the expiration of 24 months from the date of this permission.

Reason: To ensure appropriate works are carried out within a reasonable time period due to tree health and condition being variable over time and the recommended management for trees is based on tree condition at the time of inspection.

**2. Habitat and wildlife**

As detailed in BS 3998:2010 Prior to work commencing, the tree and its surroundings should be assessed for the presence of protected species, some of which are subject to season-specific legislation. Any works should be planned so as to limit their potential adverse impact on wildlife generally. The timing of works should take account of the seasonal cycles of the species of fauna and flora concerned (including the nesting habits of birds and the egg-laying habits of insects).

Reason: In compliance with the Habitat Regulations and Countryside and Wildlife Act.

**3. Extent of Works**

Permission is granted for the works as detailed in this approval. The crown reduction work should adhere to pruning mainly 'soft growth' eg under 75mm diameter, on the outer part of the tree crown to reduce overall height and spread but must not include removal of larger structural branches over this size. Branch reductions must also ensure pruning back to suitable junctions to retain sufficient live foliage that will support continued growth/prevent branch die-back. Pruning must be done evenly all round to maintain the tree's natural form and symmetry. Visible deadwood may be removed as required.

All works must be undertaken to a high professional standard in accord with arboricultural best practice and in line with BS3998: 2010 Tree Work Recommendations

Reason: In the interests of visual amenity and health .and wellbeing of the trees

### **BACKGROUND**

1. A Tree Preservation Order (TPO) was confirmed for the trees under (00.8.5.455) on 30<sup>th</sup> March 2004.

### **SITE AND SURROUNDINGS**

2. The trees are located to the West of Woodend Court, Wynyard.

### **PROPOSAL**

3. The application seeks consent for the works to various trees covered by a group tree preservation order.
4. The works originally included the felling of T4, however this is no longer proposed and the description has been amended accordingly.

### **CONSULTATIONS**

5. The following consultation were notified and any comments received are set out below;
6. SBC Tree & Woodland Officer  
An arboricultural report has been provided as part of the tree works application proposal. I have reviewed the specific work proposals (the trees in question are indicated on the report site plan). I note a lot of neighbour objections for this work taking place, however, it appears the purpose of the supporting arboricultural application, was to review the current condition of the trees within this tree group and provide appropriate recommendations to make the trees safe mainly due to branch loss and visible defects due to historical storm damage. It appears that this tree group has, over years, been susceptible to storm damage and until now this has not been reviewed for corrective remedial tree work.

The report condition of the trees showing branch loss and splitting, some are hanging in the trees. The fallen branches have in turn affected neighbouring trees which now also require remedial work. The work proposals appear to generally make the trees safer whilst improving the tree form, where storm damage has affected the structure of the trees.

Dead wood and hanging branches are noted for T3, T4 and T16. Such work would be allowed to be completed as exempt works, to maintain the trees safety.

Specifically, other mentioned proposals are :

T3 Oak: this tree is recommended for a height reduction (reducing sparse areas of the upper crown) to reduce the partly storm damaged areas of the upper crown where there has been branch loss. This recommendation would be acceptable.

The report mentions this would also achieve reducing the 'wind sail area', by side crown reduction (reducing limbs by a maximum of 2 - 3 m) aiming to reduce the tree shape, in doing

so, aiming to minimise the future wind effect on the tree and allowing the tree to develop from growth points following this reduction work. Consent can be granted for this work to take place.

T4 Oak: is recommended for either removal or reduction. There are early signs of a fungal decay pathogen at the base of the tree. The surveyor recommends felling the tree, and mentions a proximity of the tree to properties. Based on the level of information at this stage we would refuse the request to fell - photographic evidence of the fungal presence would support the claim or other wider issues such as dieback in the crown being evident would also support a potentially declining condition. we recommend that this tree is surveyed regularly in the future for any declining symptoms that may be indicative towards a worsening condition of the tree.

T5 Sycamore: proposed dead wood removal. Consent can be granted for this proposal.

T7 Sycamore: proposed dead wood removal. Consent can be granted for this proposal.

T11 Oak: proposed reduction by 4 metres and prune sides to shape, reducing limbs by a max 2 - 3 m plus removal of dead wood, reducing the 'wind sail area', by side crown reduction aiming to minimise the future wind effect on the tree and allowing the tree to develop from growth points following this reduction work.  
Consent can be granted for this work to take place.

T12 Larch: proposed to be felled as it is now exposed due to failure of the surrounding trees, and evidence of branch failure in the crown. Consent granted for this to proceed.

T13 Oak: proposed dead wood removal. Consent can be granted for this proposal

T14 Hawthorn: proposed dead tree to fell. Consent can be granted for this proposal.

T15 Oak: it is proposed to lessen wind forces by crown reduction of 4 metres and reducing limbs by a maximum of 2 - 3 metres. Through crown reduction work this would aim to minimise the future wind effect on the tree and allowing the tree to develop from growth points following this reduction work. Consent can be granted for this work to take place.

T17 Oak: Recommended to remove the crown and leave as a standing stem at 6 metre height. The reason for work being due to the significant storm damage that the tree has suffered and it's proximity to car parking and property. Consent can be granted for this work to take place.

To summarise, consent is approved on the above tree work proposals except for the proposal to fell T4, the report mentions an alternative proposal of a reduction to mitigate wind sail factors of the tree at present. A crown reduction for T4 can be approved in line with the same crown reductions of Ts 11 and 15: crown reduction work by 4 metres in height and reducing limbs by a maximum of 2 - 3 metres all around.

The above approvals and specifically for crown reduction work should adhere to pruning mainly 'soft growth' eg under 75mm diameter, on the outer part of the tree crown to reduce overall height and spread but must not include removal of larger structural branches over this size. Branch reductions must also ensure pruning back to suitable junctions to retain sufficient live foliage that will support continued growth/prevent branch die-back.  
Pruning must be done evenly all round to maintain the tree's natural form and symmetry.

Visible deadwood can be removed as required.

All works to be undertaken to a high professional standard in accord with arboricultural best practice and British Standard 3998: 2010 Tree Work Recommendations.

7. Wynyard Parish Council

Parish councillors have expressed concern over the quality of the expert advice on which this application is based; and aspects of the content of the application itself also seem highly questionable, to the extent that its validity is doubtful. It is not clear from the application whether, in planning terms, the applicant is the person or organisation making a planning application, or whether the agent is a person or business appointed by the applicant to make the application on their behalf. The arboricultural statement/tree report is based only on site observations from the ground and any information that the planning authority has provided, without any detailed or decay investigation having been carried out. The report confirms that the trees located on this site are indeed a vital asset as well as being a feature to the local landscape and are high in amenity and wildlife value, and the planning authority is urged to carry out a re-inspection on all of the trees and to have the site professionally re-assessed before any decision is made.

**PUBLICITY**

8. Neighbours were notified and seven letters of objection have been received, with the comments summarised out below (in summary);

Objection comments

- Visual impact
- Non-specific grounds for felling the Oak tree (T4)
- Trees are a vital asset to local landscape and are of high amenity and wildlife value.
- TPO was granted to safeguard the trees and not set a precedent
- Why are the works proposed – is this in relation to further development
- The trees need to be independently surveyed
- Impact on Wildlife
- Who is the Applicant

**PLANNING POLICY**

9. 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 Stockton on Tees Borough Council Local Plan 2019.
10. Section 143 of the Localism Act came into force on the 15 January 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 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.

**National Planning Policy Framework**

The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development which for decision making means;



- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. 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.

### **Local Planning Policy**

The following planning policies are considered to be relevant to the consideration of this application

#### Strategic Development Strategy Policy 5 (SD5) - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:
  - d) Enhancing woodlands and supporting the increase of tree cover where appropriate.

#### Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:

- b. Landscape character of the area, including the contribution made by existing trees and landscaping;

#### Natural, Built and Historic Environment Policy 5 (ENV) - Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity

7. Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.

### **MATERIAL PLANNING CONSIDERATIONS**

11. The main material considerations in this application are whether the works proposed to the trees are reasonable. The application was submitted with a supporting document from Olivers Tree Services who reviewed the current condition of the trees within this tree group and provided recommendations to make the trees safe mainly due to branch loss and visible defects due to historical storm damage.
12. The Councils Tree and Woodland Officer has reviewed the proposed works and his professional opinion on behalf of the council is detailed in Paragraph 7 of the report.
13. The works as proposed are considered reasonable other than the felling of T4 Oak where insufficient evidence has been supplied to justify the approval of these works, however it is recommended that this tree is surveyed regularly in the future for any declining symptoms that may be indicative towards a worsening condition of the tree. This has been discussed with agent who has removed the felling of this tree and now the proposed works to the Oak tree T4 is to remove deadwood (in line with that as recommended by the Councils Principal Tree and Woodland Officer).
14. Neighbours are concerned that these works are in relation to further developments however any building work on this land will be subject to a future application and considered at that time.

15. In terms of Ecology anyone carrying out work to a tree, even under an exception, should ensure they do not contravene laws protecting wildlife. A condition has been recommended to ensure the Applicant adheres to the relevant legislation in relation to wildlife and habitat.
16. In relation to the concerns over the applicant, anybody can apply to carry out works to trees and if the LPA grants consent it will be for the applicant to get any necessary permission (for access to the land, for example) from the owner, before carrying out the work.
17. Overall, based on the professional advice of the Principal Tree and Woodland Officer the proposed works are therefore recommended for conditional approval for the reasons specified above.

### **CONCLUSION**

It is recommended that the application be Approved with Conditions for the reasons specified above.

**Assistant Director of Inclusive Growth and Development**  
**Contact Officer Rachel Powell Telephone No 01642 527796**

### **WARD AND WARD COUNCILLORS**

|                        |                                  |
|------------------------|----------------------------------|
| <b>Ward</b>            | <b>Northern Parishes</b>         |
| <b>Ward Councillor</b> | <b>Councillor John Gardner</b>   |
| <b>Ward Councillor</b> | <b>Councillor Vanessa Sewell</b> |

### **IMPLICATIONS**

**Financial Implications:** None

**Environmental Implications:** See Report

#### **Human Rights Implications:**

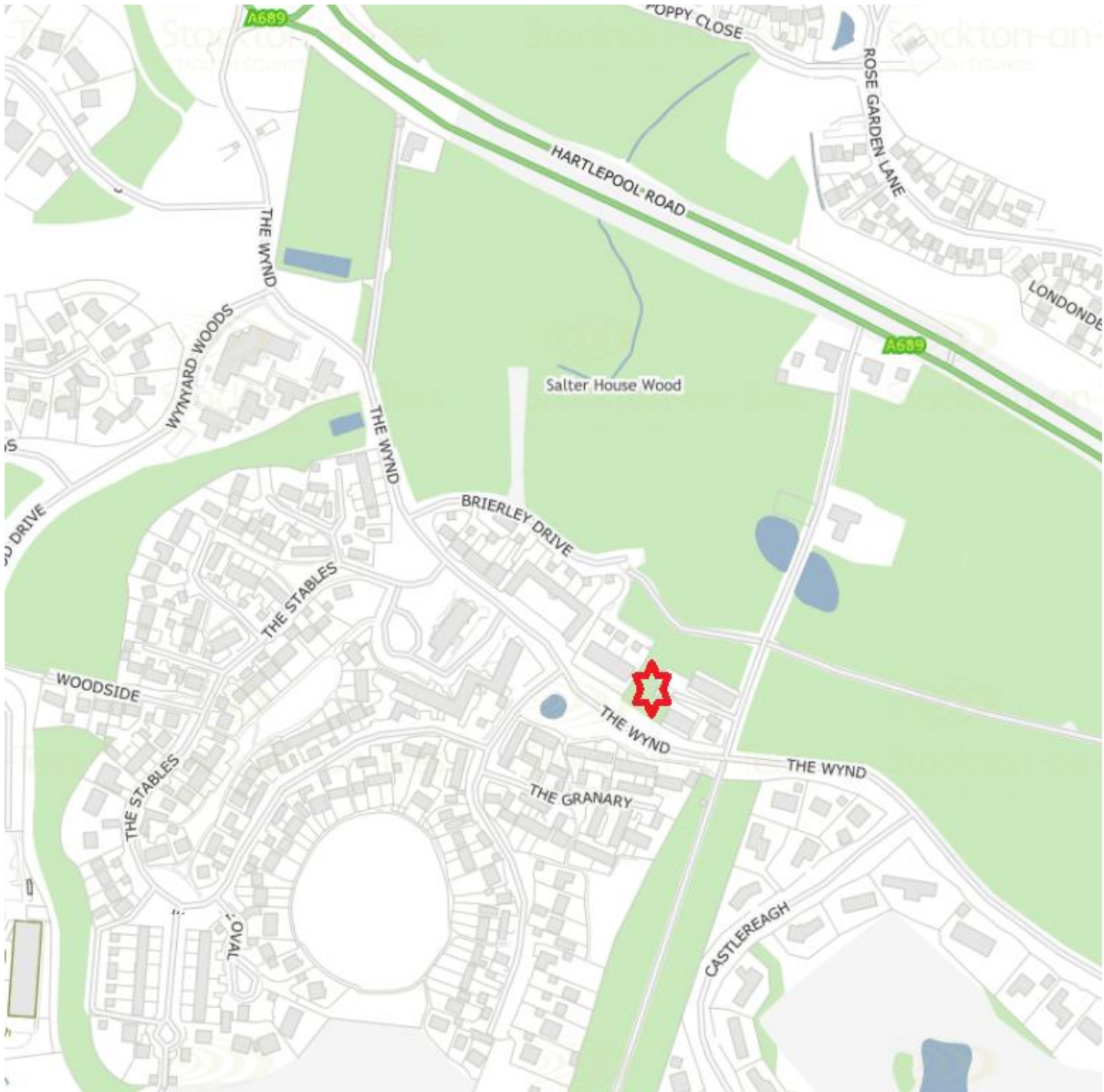
The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

#### **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**

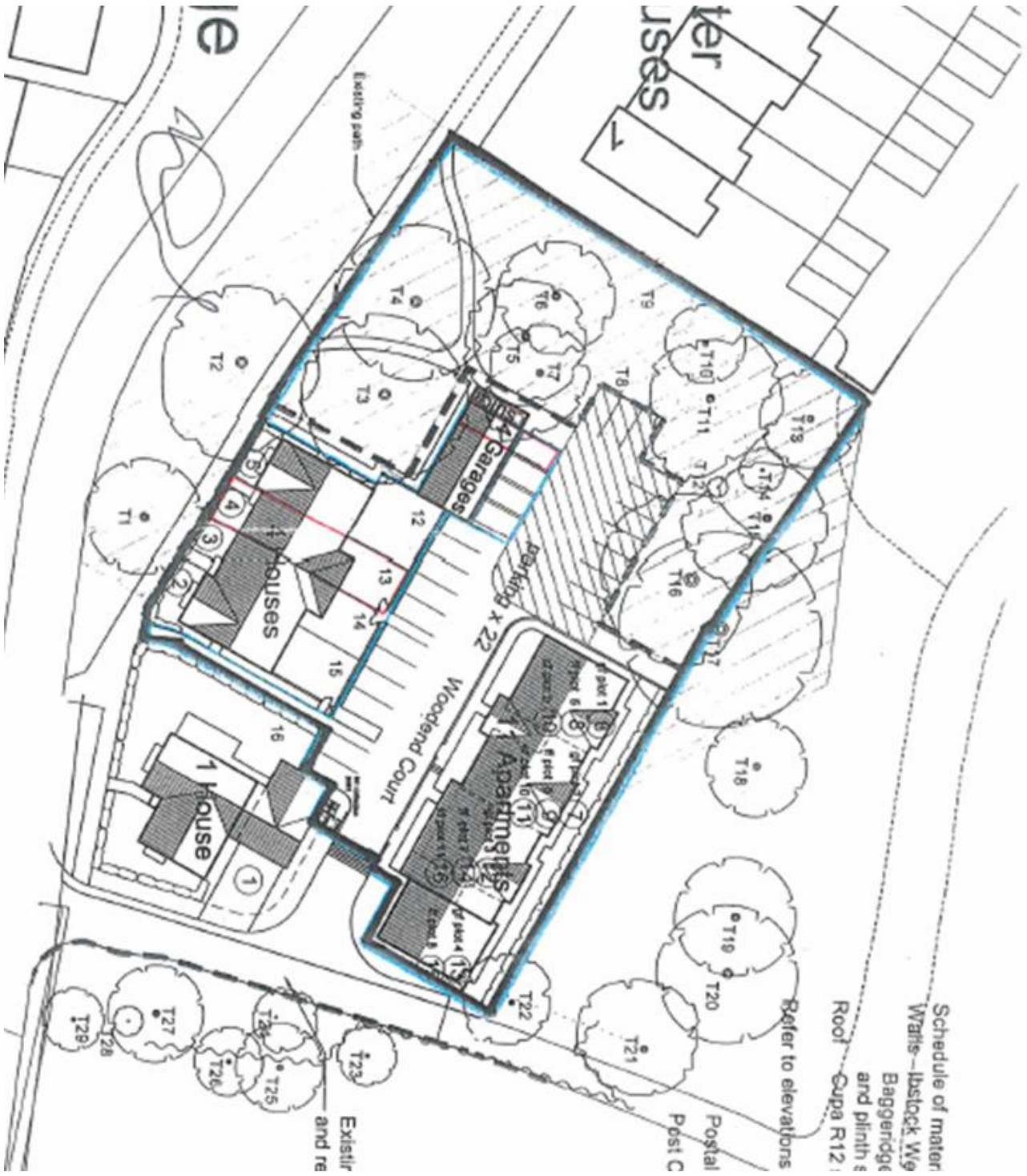
Stockton on Tees Local Plan Adopted 2019  
Application File



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**DELEGATED****AGENDA NO  
PLANNING COMMITTEE****10 April 2024****REPORT FOR ASSISTANT DIRECTOR OF  
INCLUSIVE GROWTH AND DEVELOPMENT****Local enforcement plan – planning guidance****SUMMARY**

The Council has a statutory duty to investigate breaches of planning control although the decision on whether to act is nevertheless discretionary. Ensuring compliance with planning regulations is also considered to play an important role in safeguarding the policies of the Local Plan and achieving high standards of development across the Borough.

The NPPF (para 59) states that effective enforcement is important to maintain public confidence and that local planning authorities should consider publishing a local enforcement plan “to manage enforcement proactively, in a way that is appropriate to their area”.

Additionally following last year’s scrutiny review of planning (development management) & adoption of open space, the agreed action plan (point 3) sought to introduce a local enforcement plan. A draft “Local Enforcement Plan” has been developed and this has been previously shared with CMT who supported the intention to introduce and ‘adopt’ the local enforcement plan (Appendix 1).

The local enforcement plan does not have any legal status or formal adoption process, instead it is intended to provide guidance and increased transparency on the authority’s approach to how breaches of planning control will be processed with potential benefits being to help manage customer expectations and improve the overall customer experience.

**RECOMMENDATION**

Members are recommended to note and endorse the contents of this report.

**BACKGROUND**

1. Approximately 450-500 planning enforcement enquiries are received each year with a wide range in their overall nature and complexity. Currently the council does not have a local enforcement plan in place and public advice of how the council approaches planning enforcement or compliance matters are restricted to the council’s planning enforcement webpages. Subsequently there are unclear customer expectations with regards to process and no indicative timeframes for when an outcome might be expected.
2. Adoption of local enforcement plans are encouraged within the national planning policy framework (NPPF), with paragraph 59 stating;

*“59. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”*

3. Furthermore, the national planning guidance (NPG) sets out that the adoption of a local enforcement plan is important because it provides greater transparency, clarity and accountability about how the planning enforcement process operates within each local authority.

### **PURPOSE**

4. The 'adoption' of a local enforcement plan would allow the Council to set out clear expectations on how it will approach investigations into breaches of planning control. As well as bring clarity to what planning enforcement can look into; the overall investigation process; and, the factors taken into account when deciding whether to take planning enforcement action or not.
5. A number of key waypoints for the investigation process are identified as well as a broad indication of when outcomes for the investigation process can typically be expected. To ensure that the service delivers out on the intended outcomes, a series of performance monitors are to be introduced so that effective service delivery can be monitored.
6. In order to make an effective use of resources, it will seek to introduce an appropriate priority system (emergency, high and low) based on the nature of the breach as well as highlight the level of information required to allow Officers to focus their attention on the investigation and minimise time spent gathering basic information.

### **IMPLEMENTATION**

7. Alongside the Local Enforcement Plan and prioritisation indicators, improvements to the 'receipt/validation' process for planning enforcement requests are also being made. ensuring that a series of checks take place for all requests received for planning compliance/enforcement action.
8. In addition and in order to introduce an element of consistency to the prioritisation of cases, a 'triage' system has also been developed allocating a 'score' (based on a series of inputs which relate to the nature of the case) within the priority rating system (emergency, high and low) which will allow officers to ensure that most sensitive and urgent cases are investigated as a high priority and are given appropriate attention.
9. Colleagues within the business support team are also currently working on producing performance monitoring measures which will be displayed in Power Bi to create additional performance monitoring within the existing Planning Services performance dashboard.
10. It is intended to introduce the Local Enforcement Plan on the 1<sup>st</sup> June 2024, with all new planning enforcement requests being processed under the new priority, waymarking and monitoring systems identified in the new approach. Historical caseloads will continue to be progressed it is simply that they will be excluded from the new performance reporting process.

**Assistant Director of Inclusive Growth and Development**  
**Contact Officer Simon Grundy 01642 528550**

### **WARD AND WARD COUNCILLORS**

|                        |                        |
|------------------------|------------------------|
| <b>Ward</b>            | <b>All wards</b>       |
| <b>Ward Councillor</b> | <b>All Councillors</b> |

### **IMPLICATIONS**

**Financial Implications:** None

**Environmental Implications:**

Through effective planning enforcement it is envisaged environmental standards across the borough will be improved.

**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:**

National Planning Policy Framework; National Planning Guidance; Adopted Local Plan.

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# Stockton on Tees Borough Council Local Enforcement Plan

MARCH 2024



# Contents

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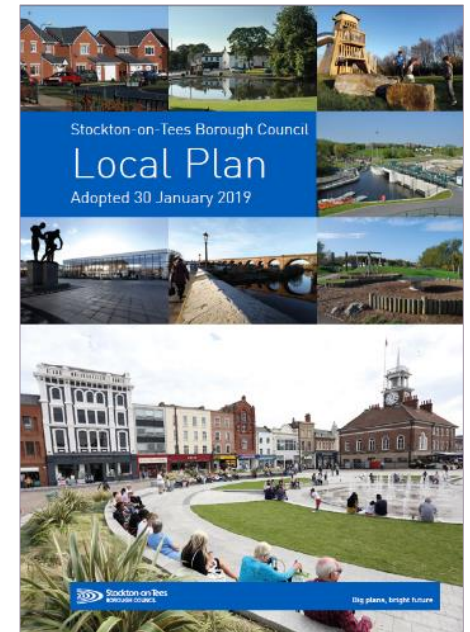
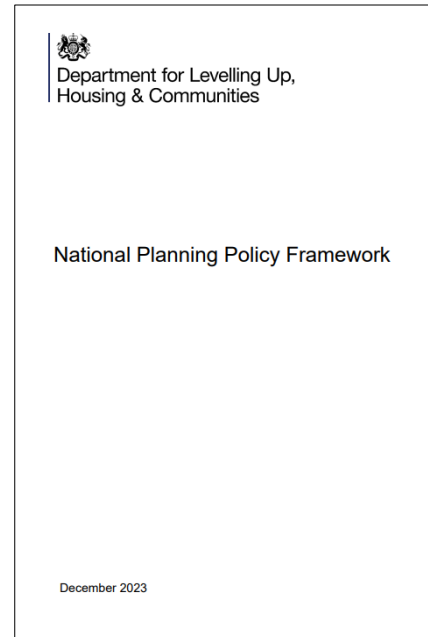
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The Five Lamps Thornaby

## 1. INTRODUCTION;

- 1.1. The National Planning Policy Framework (NPPF) encourages effective enforcement action to maintain public confidence in the planning system. It recommends that local planning authorities (LPA's) publish a local enforcement plan to help proactively manage planning enforcement in a way that is appropriate to their area. As set out in the NPPF, planning enforcement action is discretionary, and the local planning authority should act proportionately in responding to suspected breaches of planning control.
  
- 1.2. Stockton-on-Tees Borough Council believes that planning compliance has an important role in ensuring that the policies of the Local Plan are effective and high standards of development are achieved across the Borough.
  
- 1.3. The planning enforcement function sits within the Planning Services team and the purpose of this local enforcement plan is to set out our approach to processes and investigating alleged breaches of planning control.



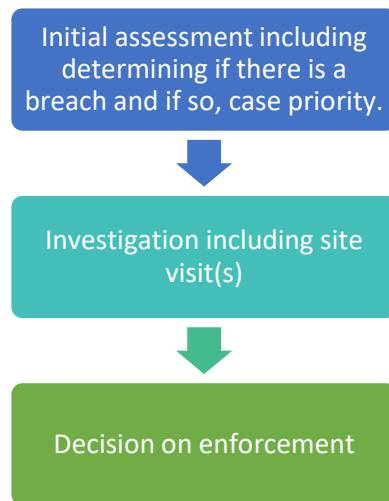
## 2. PLANNING ENFORCEMENT PROCESS;

2.1. Planning enforcement is a reactive service whereby requests are made for potential breaches of control to be investigated. These requests can come from the public, elected members, stakeholders, or council employees.

### General process;

2.2. Once a case is received it will be logged and allocated to an officer to investigate. Initially the enforcement process involves an assessment as to whether there is a breach of control or not.

Figure 1: Main steps in an Enforcement investigation



2.3. In certain cases, the investigation may require a site visit to establish whether a breach of planning control has taken place. There may also be some occasions where a series of visits are required to be able to establish if there is a breach in planning control.

2.4. **Where there is no breach of planning control, the investigation will be closed, the relevant parties informed, and no further action taken. Where a matter has been previously investigated and no breach of control was found, there will be no reinvestigation of the case unless the complainant is able to provide substantive evidence of the alleged breach.**

2.5. If a breach of planning control has occurred, then a more detailed assessment of the breach and its associated impacts will often be required. In some circumstances the complainant may be advised that additional evidence is required to assess the impacts and may be asked to provide diaries and records over the nature and type of activity. The use of photographs with a time/date stamp is always beneficial evidence.

2.6. The council may also need to liaise with other council departments or outside bodies to be able to form a view on the impacts of a breach in planning control.

2.7. All of the information and evidence is then considered and a decision as to whether it is expedient to take enforcement action against any breach of planning control or not, is then taken.



### 3. WHAT IS A BREACH OF PLANNING CONTROL

- 3.1. Enforcement of planning legislation can often be complex and is in some circumstances also a lengthy process to go through. This is because a balance needs to be considered between upholding planning policies, safeguarding the amenity of an area and the rights of individuals to use or alter their property as they choose.
- 3.2. Nevertheless, the council has the ability to take enforcement action when a breach of planning control has occurred provided that it is deemed appropriate, and those powers are set out within the Town and Country Planning Act 1990.
- 3.3. The council is required to give those responsible for unauthorised works the opportunity to put matters right before taking formal enforcement action. If the council's actions are considered unreasonable, too harsh or legally incorrect any enforcement action can be overturned by the Planning Inspector or the courts and the council can also be liable to pay any associated costs.

#### **When does a breach of planning control occur?**

- 3.4. A breach of planning control is defined within the Town and Country Planning Act (section 171A), a breach occurs when development has occurred without having the required planning permission, or when the development is not being carried out in accordance with any of the imposed planning conditions.
- 3.5. A breach of planning control can also occur when development is carried out without obeying the relevant limitations or conditions

which are set out within the Town and Country Planning (General Permitted Development Order) 2015.

- 3.6. The most common breaches of planning control that the council deals with include;
  - where something has been built without planning permission
  - when the use of land or a building has altered without permission
  - where unauthorised advertisements have been installed
  - when conditions attached to planning approvals have not been complied with
  - the poor condition of land impacting on the visual amenities of the wider area.
- 3.7. The onus to apply for planning permission rests with the land/property owner. If any remedial works are required, then the property owner/developer will be liable for the full extent of any associated costs. In addition, any breach of planning control may show as part of a property search should you wish to sell your property in the future.
- 3.8. However, it is not necessarily a criminal offence to carry out development without planning permission. However, **in the event unauthorised development involves advertisements, works to**

**protected trees or listed buildings, or if a formal planning enforcement notice has been served and it has not been complied with, then a criminal offence may have occurred, and the council may seek to take all necessary legal action to resolve the situation.**

**What cannot be considered under planning enforcement?**

3.9. The planning enforcement process has a very clear legal framework and it must be related to both planning legislation and be something which would require/have planning permission.

Those matters which do not fall within the planning remit will not be investigated and we will inform you the reason why the planning department will not investigate. Where sufficient information is provided and any matter falls within the responsibility of other areas of the Council then they will be redirected to the appropriate department(s).

Many of those common aspects which do relate to planning include;

- neighbour disputes
- land boundaries or ownership disputes
- deeds of covenant issues
- works to party walls
- parking of commercial vehicles on the highway

- parking a caravan within the residential boundary of a property
- use of / development on highways or pavements.
- dangerous structures
- internal alterations to houses (unless a listed building or creating a separate dwelling/flat)



Wynyard Woodland Park

#### 4. REPORTING A BREACH OF PLANNING CONTROL

- 4.1. Stockton on Tees Borough Council will investigate those complaints which it receives in writing as this helps us to maintain a clear audit trail so that there is no misunderstanding of what is being complained about and also prevents any malicious complaints being received.
- 4.2. **The council has an on-line form which can be used to submit any planning enforcement queries. This is the easiest and quickest way to get a planning enforcement concern looked at.** Alternatively email and letter will also be accepted where we have the required minimum level of information. Telephone calls will only be accepted where the unauthorised works relate to a listed building or protected tree.
- 4.3. **We will not investigate any anonymous complaints, complaints which rely on an email address or those which do not include the necessary mandatory information.**



Stockton Town Centre – Fountain

- 4.4. The minimum level of information that must be provided includes;
- your name and address,
  - telephone number or e-mail address.
  - location of the building or site
  - nature of the activity
  - explain what problems the development/use is causing to you (e.g. noise, traffic, smells, overshadowing).

#### Confidentiality

- 4.5. All planning enforcement matters are treated with a high degree of discretion and officers will not disclose any information which relates to the person(s) reporting the breach of planning control.
- 4.6. Where formal action is being taken and you have previously provided evidence to support an investigation you may be asked to give that evidence at a hearing, but before then you will be asked if you are prepared to do that. Most complaints are dealt with without the need for formal action.
- 4.7. Under the Freedom of Information Act 2000, if a request is made for the identity of the complainant or for information which may identify the complainant, we will not disclose your details. In some circumstances the information may be required to be disclosed by law. In such cases you will be contacted for your permission.

## 5. HOW WE WILL INVESTIGATE AND ASSESS A BREACH OF CONTROL

- 5.1. In order to make an effective use of resources, all incoming enforcement cases will be categorised and given an appropriate priority based on the on information provided (see table 1).
- 5.2. This will determine the broad timetable for processing any enforcement matter. The priority rating may be changed by the planning department following an assessment of any relevant planning history and any site visits, in case where it is deemed necessary.
- 5.3. The associated timeframes and key waypoints for dealing with enforcement action (table 2) are indicative and give a broad timeline for the majority of cases. In some circumstance there may be unforeseen delays (such as the complexity of a case, protracted negotiations or at times of high workloads within the department), where such matters arise the council will try to notify any complainant at an appropriate time.

### TABLE 1; ENFORCEMENT PRIORISATION CATEGORIES

The three enforcement priorities;

**Emergency** – these cases will involve circumstances where there is a high likelihood that irreversible harm will occur if the council do not act immediately i.e. unauthorised felling/pruning of protected trees or unauthorised works to listed buildings;

**High Priority** – these cases will include matters where there is a high likelihood that there will be (or the potential for) significant harm to be caused within the surrounding area i.e. unauthorised uses/activities which are causing significant noise/disturbance; breaches in conditions which affect residential amenity; or circumstances which affect highway safety.

**Low Priority** – these cases will typically be matters which do not pose a significant threat to an area or are unlikely to result in immediate or irreversible harm i.e. building of walls/fences; unauthorised advertisements.

**The investigation**

- 5.4. Initially we will carry out some desk-based checks. Should there be no breach in planning control then the investigation will cease at this point. Where there is a potential breach, the case priority level will be established and the case officer will investigate further. This may include a site visit to help establish whether there is a breach of planning control. The majority of site visits are made without prior arrangement, and it is generally unnecessary to visit a complainant’s property or to meet with them. At the end of an investigation we will decide what the next steps may be (case action determined) which could include deciding not to pursue enforcement action; to seek a retrospective application; or whether the use of more formal powers may be necessary if any appropriate resolution cannot otherwise be reached.
- 5.5. **Officers are authorised under Section 196A of the Town and Country Planning Act 1990 to enter (at any reasonable hour and when it is reasonably necessary), land to ascertain whether there is any breach of planning control.** However, officers do not have powers to force entry into any house and we will leave a card to try and arrange a convenient time to visit. In rare cases, officers may apply for a warrant.
- 5.6. As part of the site investigation officers will ask questions, take photographs and measurements. This information will be used to ascertain whether a breach of planning control has taken place.

**TABLE 2; PLANNING ENFORCEMENT WAYPOINTS**

| Action                             | Priority Level  |                        |                        |
|------------------------------------|---|------------------------|------------------------|
|                                    | Emergency   | High                   | Low                    |
| Register complaint                 | Immediately   | Within 2 working days  | Within 2 working days  |
| Start initial assessment process   | Within 24 hours   | Within 5 working days  | Within 5 working days  |
| Initial response to complaint      | Within 48 hours (excluding weekends)                                    | Within 10 working days | Within 10 working days |
| Commence investigation             | Within 48 hours (excluding weekends)                                    | Within 4 weeks         | Within 6 weeks         |
| Enforcement Case Action Determined | As soon as is possible if significant or irreversible harm is occupying | Within 8 weeks         | Within 12 Weeks        |

## 6. ASSESSING THE IMPACT AND WHETHER ENFORCEMENT ACTION IS REQUIRED?

- 6.1. In certain or straightforward cases where the council has sufficient information either as part of the complaint or from our own records and information then the investigation may simply be a 'desk-based exercise' in other cases site visits may be required to gain a full understanding of the alleged breach of control .
- 6.2. Where officers can find no evidence of a breach of planning control the investigation will be closed, the relevant parties informed and no further action taken.
- 6.3. In some circumstances the complainant may be asked to provide additional evidence to identify or substantiate the allegation, for example information logs, records and diaries. Such cases will not be reinvestigated unless the complainant is able to provide more substantive evidence of the alleged breach of planning control.
- 6.4. The general test applied is "would planning permission likely to be granted for the development". Only material planning considerations will be part of this process. Issues such as; loss of value to property, Party Wall Act matters, competition with other businesses, land ownership disputes, loss of a view or breaches of a covenant will not be considered.
- 6.5. Where a breach has occurred and if the council consider matters can be rectified then we will initially attempt to resolve all breaches of planning control through negotiation. Negotiation will not be allowed

to unjustifiably delay any necessary planning enforcement action but they can take time to resolve.

- 6.6. In other cases where further information is required, then the council may serve a Planning Contravention Notice (PCN), the main purpose of a PCN is to gather necessary information to help establish whether there is a breach of control or whether there is a case for taking enforcement action. It is an offence if the recipient of the notice fails to provide the required information. If convicted of such an offence the offender would be liable on conviction, to a fine currently not exceeding £2,500.

### Exceptions

- 6.7. There are exceptions where breaches of planning control become lawful through the passage of time and in such cases no action can be taken. These include;
  - 4 years of substantial completion for operational development (i.e. structural alterations/construction)
  - 4 years for an unauthorised change of use of a building / structure to a single dwelling house
  - 10 years for any other breach of planning control (such as changes of use or breaches of condition).

## 7. PLANNING ENFORCEMENT ACTION AND POWERS AVAILABLE

- 7.1. In considering whether to take planning enforcement action or not, it will be necessary to take account of national planning policies including the NPPF, the Governments planning practice guidance, the relevant policies of the Local Plan and all other relevant material planning considerations.
- 7.2. Ultimately In deciding whether or not to take planning enforcement action the council must consider whether it is expedient to do so, in line with the expediency test (figure 2).
- 7.3. Should planning enforcement action be required then the council has a number of different options available to consider. In some cases there may be several which apply and the most appropriate one will be chosen. The various options which are available are identified in appendix 1.
- 7.4. If a matter is to be pursued in the courts, the council will need to consider whether the evidence held is sufficient enough to ensure that there is a realistic prospect of a of conviction. Any evidence must clearly prove that the offence has occurred and identify who is legally responsible for that breach.
- 7.5. There may also be circumstances where it is not in the public interest to pursue action and these will be discussed with the council's Legal

Services Team. The council will not initiate prosecution proceedings where it is disproportionate, likely to be ineffective in resolving the breach or where there is no realistic prospect of conviction.

- 7.6. Where it is necessary to use witnesses, the witness will be advised of the possible need to attend court and will be asked to provide a written witness statement. In such circumstances, if witnesses cannot or do not provide the necessary evidence, those prosecution proceedings may not be pursued.

### FIGURE 2: EXPEDIENCY TEST:

This involves the Planning department assessing whether;

- the breach is in accordance with the policies of the Local Plan
- whether there are any other material planning considerations
- whether planning permission would have been likely to be granted
- whether the breach unacceptably affects public amenity
- whether the breach unacceptably affects any existing land, use or buildings which merit protection in the public interest
- whether action would be proportionate with the breach to which it relates
- whether it is necessary and/or in the public interest.

## 8. SERVICE STANDARDS

8.1. In order to ensure that the council is providing an effective planning enforcement service, it has identified a number of ways in which it can monitor its performance and where necessary take appropriate action to remedy any shortcomings in the service it is providing.

8.2. Our service targets which ensure our performance can be measured are:

- 70% of enforcement case closed where no breach identified - 20 working days
- 60% of enforcement requests receiving an initial response (i.e whether there is no breach of control or further investigation required) within 10 working days
- 60% of planning enforcement cases, where the case actions are determined within the established priority timescales.

8.3. In all planning related matters, no two cases are the same and although the council will aim to meet with the timeframes and service standards identified there may be unforeseen delays. Where

these matters arise the council will notify any complainant of any such circumstance at an appropriate time.

### **Complaints about the service.**

8.4. Should you be unhappy about with advice you have received, the action being taken, or the level service you have received by a member of the Planning Services team in exercising our planning enforcement functions please contact us on the details below;

Phone: 01642 526022

Email: [planningdevelopmentservices@stockton.gov.uk](mailto:planningdevelopmentservices@stockton.gov.uk)

Alternatively you can complain using the council's corporate complaints process on the details below:

Phone: 01642 527521

Email: [foiandcomplaints@stockton.gov.uk](mailto:foiandcomplaints@stockton.gov.uk)



**APPENDIX 1: TYPES OF ENFORCEMENT ACTION**

| <b>Type of Action;</b>              |  |
|-------------------------------------|--|
| No formal action                    | <p>This is often the quickest way of dealing with a breach of planning control. In some instances the owner or occupier of a property acknowledges they have made a genuine mistake and takes immediate action to remedy it.</p> <p>The local planning authority will never condone a willful breach of planning law but planning enforcement action should be proportionate to the breach of control and in some cases the local planning authority may decide that it is not necessary to take action – often termed as not being expedient to take action.</p> <p>This may include circumstances where there is a trivial or technical breach of control which causes no material harm or adverse impacts or in circumstances where development is acceptable on its planning merits.</p> |
| Retrospective planning application  | A local planning authority can invite a retrospective application where it is considered that an application is the most appropriate way to regularise the situation. However, if an application is invited it does not automatically follow that permission will be granted.  |
| Planning contravention notice (PCN) | A planning contravention notice is often used by the council to seek information they may want for enforcement purposes, these may include asking questions about the use/operations being carried out on the land.  |
| Enforcement notice                  | An enforcement notice should only be issued where the local planning authority is satisfied that there has been a breach of planning control and it is expedient to issue an enforcement notice. This will set out what the council considers to be the breach of planning control and what action(s) will be required to rectify the situation.   |

|                                  |   |
|----------------------------------|---|
|                                  | An appeal against an enforcement notice can be made to the Planning Inspectorate. However, it is an offence not to comply with an enforcement notice, once the period for compliance has passed. A person guilty of an offence is liable on conviction to an unlimited fine and the council can in certain circumstances also seek to apply to recover any financial benefit obtained through the unauthorised development under the Proceeds of Crime Act 2002.  |
| Planning enforcement order       | A planning enforcement order may be necessary where a person deliberately conceals unauthorised development. A planning enforcement order enables an authority to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired. To take this action the council must make an application within 6 months of the council becoming aware that there has been a breach of planning control. The application must be made to a magistrates' court and a copy must be served on the owner/occupier of the land, and anyone else with an interest in the land. |
| Stop notice                      | A stop notice prohibits any or all of the activities which comprise the alleged breach(es) of planning control specified in the related enforcement notice, however, it cannot prohibit the use of any building as a dwelling house or the siting of a caravan occupied by a person as his or her own main residence. It is however necessary to ensure that a stop notice only prevents what is essential to safeguard amenity, public safety or prevent serious or irreversible harm to the environment.  |
| Temporary stop notice            | <p>Temporary stop notices are a tool that allows local planning authorities to act very quickly to address some breaches of planning control, where it is expedient to do so. The council must be satisfied that the breach of planning control stops immediately and give appropriate reasoning for serving the temporary stop notice.</p> <p>A temporary stop notice should only be served to safeguard amenity, public safety or prevent serious or irreversible harm to the environment. In the event a temporary stop notice is served it can last up to 28 days.</p>  |
| Breach of condition notice (BCN) | A breach of condition notice requires that previously imposed conditions are complied with and is an alternative to serving an enforcement notice. However, there is no right of appeal to a breach of condition notice. If a breach of condition notice is not complied with then prosecution can be sought via the Magistrates' Court.  |
| Section 215 notice               | A section 215 notice is served on a land/property owner if the land/buildings are deemed to be untidy and affect the amenity of an area. Where a notice is not complied with then a decision is made to determine whether;  |

|                |   |
|----------------|---|
|                | <ul style="list-style-type: none"> <li>• Action is necessary</li> <li>• Seek to prosecute</li> <li>• Carry out works in default</li> </ul> <p>Where the council carries out the work in default it can seek to recoup the monies which could include registering a charge against the property.</p>   |
| Advertisements | <p>The erection of unauthorised advertisement is a criminal offence and in some case the council may seek a prosecution. In other cases a land/property owner may be advised to seek retrospective approval.</p>  |
| Injunction     | <p>A local planning authority can, where they consider it expedient for any actual or apprehended breach of planning control to be restrained, apply to the High Court or County Court for an injunction to restrain a breach of planning control. Proceedings for an injunction are the most serious enforcement action that a local planning authority can take and failure to comply with an injunction could result in a prison sentence for contempt of court.</p> |

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## Appeal Decision

Site visit made on 16 January 2024

**by N Teasdale BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> February 2024**

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**Appeal Ref: APP/H0738/W/23/3332172**

**Ground Floor, 106 High Street, Stockton-On-Tees TS18 1BB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Merkur Slots Ltd (UK) against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 23/1308/VARY, dated 12 July 2023, was refused by notice dated 11 October 2023.
  - The application sought planning permission for Section 73 application to vary condition no5 (opening hours) of planning approval 05/0126/COU - Change of use from retail (A1) to amusement arcade on ground floor and cafe on first floor without complying with a condition attached to planning permission Ref 21/2670/VARY, dated 21 December 2021.
  - The condition in dispute is No. 3 which states that: The premises to which this permission relates shall not be open for business outside the hours of 0900 to 1200am Monday to Sunday.
  - The reason given for the condition is: to ensure that adjoining residential properties are not adversely affected by the development.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The decision notice does not cite any development plan policies. I have therefore had regard to those listed in the officer report and the provisions of the National Planning Policy Framework (The Framework) on this matter.

### Background

3. Planning permission was granted for a Section 73 application to vary condition no5 (opening hours) of planning approval 05/0126/COU - Change of use from retail (A1) to amusement arcade on ground floor and cafe on first floor. A condition controlling the opening hours of the premises was imposed in the interests of residential amenity. Condition 3 therefore states, the premises to which this permission relates shall not be open for business outside the hours of 0900 to 1200am Monday to Sunday. The proposed development seeks to vary this condition to amend the opening hours to allow opening from 09:00 to 06:00 hours.

## **Main Issue**

4. The main issue is the effect that varying the condition would have on the living conditions of occupiers of nearby properties in relation to noise and disturbance and the impact upon the character of the surrounding area.

## **Reasons**

5. The appeal site relates to an existing commercial unit on Stockton High Street, situated in a prominent location on the corner of the High Street and Ramsgate.
6. The location is a busy commercial area with a range of uses including shops, services and public houses located nearby and there is a public car park located directly to the east of the site. Although the area is a busy commercial area, it is undisputed that there are residential properties situated above the premises and in other adjacent buildings.
7. The functioning of an amusement arcade is one where the level of noise and disturbance would be difficult to control, including the comings and goings of customers and staff both on foot and by vehicle, people conversing both inside and outside, disturbances associated with car doors opening and closing, noise from engines and car music etc when being picked up/dropped off or general traffic movements to and from the venue. I appreciate the low levels of internal noise including noise from machines, mitigation measures including sound insulation, the control of noise breakout from patrons with appropriate staffing/signage, control of background music inside the premises, no tannoy systems as well as the main entrance doors not being fixed or propped open. I also note the appellants' evidence regarding the implementation of an Operational Management Plan which is suggested to be conditioned. However, even taking such matters into account, the external noise associated with the overall functioning and use of the premises would likely be audible given the close proximity of the residential uses that are located nearby particularly in the summer months when residents may choose to open their windows. The later opening hours would result in comings and goings throughout the night and early morning and at times when ambient noise levels are low enough to enable sleep.
8. I accept that given the location of the appeal site, a certain level of noise and evening activity can be expected by nearby residents and that such uses are not uncommon in this location. However, background noise throughout the night and early morning would be lower due to there being less traffic and less people around. The sudden and intermittent types of noise associated with the use would be unreasonable and excessive in the early hours of the morning in such a setting where residents would expect it to be much quieter.
9. In reaching these conclusions, I have had regard to the opening times of other commercial uses nearby and I am aware from the evidence before me and my own observations on site that many nearby uses do not appear to operate beyond 1am. It appears undisputed that Admiral Casino located further north is open 24 hours a day and some public houses to the south also benefit from a later closing time on Fridays and Saturdays. The 24-hour opening of Admiral Casino has not been granted permission by the Council and in any event would not justify further development which would result in amenity issues.

10. I recognise that the number of customers reduces during nighttime hours, and thus there would be a reduction in customers/trips including vehicle movements. Although such users may be local entertainment workforce and late shift workers etc usually travelling on their own or in couples and are quiet, this is in relation to the current opening times and an extension of the opening hours would likely attract a different customer base. It cannot be assumed that customers would visit on their own or in couples or that other customers including groups would not visit the premises particularly when public houses and restaurants that are located closest to the site have closed and the availability of other sources of entertainment is limited. It also cannot be assumed that customers would not gather around outside of the premises before or after entering or leave quickly and quietly. Given the convenient location of the public car park to the direct east, it is likely that customers would be picked up/dropped off around this point or park here when visiting the premises in the early hours of the morning which would be within very close proximity to nearby residential properties and their windows. All of which would cause disturbance and would be difficult to manage or control. The premises does not sell or serve alcohol and Cleveland Police did not have any comment to make. Nevertheless, the extended opening times would still result in comings and goings at an unsociable time which when considering the cumulative impact alongside the nearby Admiral Casino which is open 24 hours a day, it would result in an adverse impact in terms of both noise and overall character of the area.
11. The property may benefit from an unrestricted 24-hour license, with licensing having never been revoked or reviewed although such applications are determined under different legislation to that of planning. The appellant claims that no objections have been raised on grounds of nuisance in response to consultations with local residents or statutory consultees on the planning application or complaints regarding noise from the premises. However, despite the lack of objection/complaints in regard to this specific application or in general, the absence of any complaints/objections does not mean that there would be no harm caused. I must determine the appeal based on its merits including the evidence before me and I have identified the harm that would arise. Further, I am also mindful that at present the premises is only open until midnight when some noise within this town centre location is to be expected and a lack of complaint in this respect would not be determinative as an extension of the opening hours until 6am would be much different to that of the existing operations as the background noise levels would generally be lower.
12. I have had regard to the appellant's Noise Assessment and Observation Report although the findings do not convince me that the revised opening times would not have an adverse impact on the living conditions of existing occupiers nearby. I note the difficulty of collecting data given the existing opening hours. Even so, the assessments of other operational venues elsewhere with a 24-hour consent cannot be considered comparable as the character of the surrounding areas and site-specific circumstances are likely to be very different to that of the appeal site. Additionally, the Noise Assessment sets out that the patron assessments were carried out between 0:00 and 02:45, therefore it does not give an accurate reflection of potential noise disturbance in the early hours up until 6am. To this end, the images shown in the observation report show nighttime activity associated with the bars/pubs nearby after this period

where movements to and from the venue and gatherings could reasonably take place if the venue operated later into the morning as proposed. I do not dispute the contents and findings of the Observation Report and that the premises is a well-run establishment/operates correctly in line with their company brochure. However, this is only a snapshot of time which can vary significantly throughout the year and thus is therefore not determinative. The nearby Admiral Casino is surrounded by more commercial/retail uses which differs from the appeal site which is surrounded by more evening venues such as bars/pubs and thus the observations of Admiral Casino are also not entirely representative.

13. Even if there are strict policies in place including vetting procedures regarding those allowed to enter the premises, denying entry to those under the influence of excessive alcohol and dispersal measures etc, the extended opening hours would still result in noise disturbance to surrounding residents and would impact on the character of the area. Such policies/measures in themselves could also cause issues outside of the premises which would further impact the character of the area and result in noise disturbance to surrounding residents.
14. The Council has raised concern regarding other applications coming forward which would be difficult to resist creating an unwelcome precedent. I am determining the appeal based on its own merits and the evidence before me. Any future application would be subject to its own assessment. A temporary permission of 12 months has been suggested by the appellant which is claimed to have been accepted and successful elsewhere. Considering this site on its own merits and site specifics, the harm is such where a temporary consent would not be appropriate in this instance and could indeed result in a significant adverse impact on living conditions for up to 12 months.
15. For the reasons given above, I conclude that the proposal would harm the living conditions of occupiers of nearby properties in relation to noise and disturbance and would therefore have an unacceptable impact upon the character of the surrounding area. It would therefore conflict with Policy SD8 of the Stockton-on-Tees Borough Council Local Plan, 2019 which amongst other matters, requires new development to respond positively to quality, character and sensitivity of the surrounding public realm and nearby buildings as well as the amenity of all existing and future occupants of land and buildings. For the same reasons, the development would also conflict with the aspirations of the Framework relating to achieving well-designed and beautiful places.

### **Other Matters**

16. The site is situated within the Stockton Town Centre Conservation Area (CA) and the adjoining property to the south is 104 and 105 High Street which is a grade II listed building. As such, I have a duty under Section S66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Council do not appear to raise any particular concern in relation to the impact on the character and appearance of the CA or nearby listed building given the nature of the development which relates to opening hours only and does not propose any alterations to the



exterior of the building. Based on the evidence before me and my own observations on site, I also have no reason to raise concern in this regard.

17. I understand that the extended opening times would ensure the long-term commitment to the site. It would allow the key customer base to further enjoy their favourite past time enhancing this offer during the night whilst also providing for a level of natural surveillance. Such matters however have not affected my findings on the main issue and would not sufficiently overcome the harm identified.

### **Conclusion**

18. For the reasons given, having had regard to all other matters raised, the proposed development would not accord with the development plan and the appeal should therefore be dismissed.

*N Teasdale*

INSPECTOR

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## Appeal Decision

Site visit made on 20 February 2024

**by Mr R Walker BA HONS DIPTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 February 2024**

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**Appeal Ref: APP/H0738/W/23/3334211**

**29 Carnoustie Drive, Yarm TS16 9JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Grubb against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 23/1125/COU, dated 12 June 2023, was refused by notice dated 13 September 2023.
  - The development proposed is change of use from open space to residential garden.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description in the banner heading above is taken from the decision notice, which accurately and succinctly describes the proposal. The scheme was amended during the application to enclose the new garden area with low shrubs. The drop kerb, which is also shown on the proposed plan to increase the parking area to the front of the property, was installed at the time of my site visit. The Council has raised no concerns regarding the drop kerb, and I have no reason to disagree. I have therefore focussed my consideration of the main issue on the proposed new garden area.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

### Reasons

4. No 29 Carnoustie Drive (No 29) is located in a suburban residential estate. The wider estate is characterised by, amongst other things, parcels of grassed informal land sometimes containing trees. This green infrastructure contributes to a pleasant open environment by softening and contrasting with the buildings and often enclosed gardens of dwellings.
5. No 29 is located on the corner with Player Court and contains one such open parcel of land to the side of No 29's enclosed garden. It contains two trees, and the grassed area wraps around narrowly to the rear of No 29 and the neighbouring properties gardens. In this regard, the area of informal land adjacent to No 29 connects both physically and visually with other areas of informal land adjacent to gardens and footpaths in the estate. As such, it makes a small but positive contribution to the overall character and appearance of the surrounding area.

6. The proposal would result in the loss of the informal grassed parcel of land and would sever the visual links between the other parcels of grassed land in the estate. The low shrubs would provide a clearly defined boundary and there would be no control over the height of the shrubs in the long term even if it is intended to maintain it at a low level. The change of use, bringing the land into a domestic garden use, would result in the land being more intensively used in association with No 29 than the existing open and informal situation. The visible manifestations from the domestication of the land, including from its use and planting, would harmfully erode the informal openness of the green infrastructure.
7. The appellants do not intend to erect structures or hardstanding on the land, and I'm told conditions on the sale of the land limit this. However, no firm details have been provided of any such conditions. In any case, any private covenants on the land are private matters that could be subject to change in the future and not matters that I can take into consideration as part of a planning appeal. Moreover, there would be harm from the loss of the informal open space, even without additional hardstanding or structures.
8. I therefore find that the proposal would have a harmful effect on the character and appearance of the surrounding area. As such, the proposal would conflict with the requirements of Policies SD5, SD8 and ENV6 of the Council's Local Plan (2019) and paragraph 135 of the National Planning Policy Framework, when taken together and in so far as they relate to this main issue. These say, amongst other things, that to ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will conserve and enhance the natural, built and historic environment through a variety of methods including protecting and enhancing green infrastructure networks and assets.
9. The proposal would reduce the potential for tipping on the land. However, I have not been presented with any evidence of a particular tipping issue here limiting the weight I afford this matter. In support of the appeal, my attention was drawn to properties in the area that have extended their gardens into other areas of informal open space. However, I do not have full details of these other examples and so cannot be certain that the circumstances are the same. Moreover, allowing this appeal would make it more difficult to resist further planning applications for similar schemes. The cumulative effect of such ad-hoc changes of use would exacerbate the harm I have identified to the character and appearance of the surrounding area.
10. For all the reasons given above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
11. Therefore, I conclude that the appeal should be dismissed.

*Mr R Walker*

INSPECTOR



# Appeal Decision

Site visit made on 30 January 2024

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 1 March 2024**

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**Appeal Ref: APP/H0738/W/23/3332107**

**Hunters Rest Farm, Urlay Nook Road, Eaglescliffe, Stockton-on-Tees  
TS16 0QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Steve Wilson of Rockwill Homes Ltd against the decision of Stockton-on-Tees Borough Council.
  - The application Ref is 23/1451/FUL.
  - The development proposed is provision of 7 no bungalows including 2 no. affordable bungalows on part of original application site.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. The main parties have had the opportunity to comment on its relevance to the case. I am therefore satisfied that no party has been prejudiced by my proceeding on the basis of the revised Framework.

## Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

4. The appeal site is a grassed area of land, having recently been used as a construction compound associated with the development of 22 dwellings which is nearing completion as part of a previous planning permission<sup>1</sup> and is manifest in the streetscape. The appeal site is identified as an area of open space as part of that planning permission. The site is bounded by hedgerows and an access road, with newly constructed homes facing onto it. To the rear of the site are the gardens and houses on Valley Gardens. Overhead electricity lines cross the site and there is a pylon located nearby.
5. The open qualities of the appeal site provide an appreciable degree of spaciousness and visual separation between the built form of Valley Gardens and the newly constructed houses adjacent to the site. The layout and spacings between houses creates a porous development on the edge of the settlement, with views of open countryside beyond contributing to the open characteristics of the area.

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<sup>1</sup> Ref 20/1898/FUL

6. The proposal would develop a large part of the appeal site with seven bespoke bungalows. It would result in a noticeable concentration of built form at the edge of the settlement, eroding the spatial qualities of the area and restricting views of the open countryside beyond. Consequently, the loss of this area of undeveloped land would be detrimental to the prevailing character and appearance of the area.
7. The siting of residential development adjacent to electricity pylons is said to be common in the surrounding area and I note that Northern Powergrid were consulted but have not commented on the scheme. The proposed bungalows would be sympathetic in terms of appearance and form to dwellings locally and would comply with separation distances. However, this would be at the expense of an area of undeveloped land that positively contributes to the area. It would also result in an element of visual intrusion in views from the recently constructed properties that overlook the appeal site, which I observed are already occupied.
8. The appeal site also has an important function in forming an integral part of the planned layout and design quality of the permitted scheme as a linear area of proposed open space. My attention has been drawn to paragraph 140 of the Framework which advises that the quality of approved development should not be materially diminished between permission and completion as a result of changes being made to the permitted scheme.
9. The appeal site is not subject to any designation as open space and the loss of the proposed open space, in itself, is not a reason for refusal. It is also not disputed that the surrounding area is well served by existing open space, as set out in the submitted Open Space Needs Assessment. Two areas of open space would remain either side of the proposed bungalows to meet development plan requirements for open space provision, and it is indicated that the areas would be privately managed, at a time when the Council are unable to adopt new areas of open space.
10. However, while the proposed areas of open space would meet an element of resident's recreational or health and well-being needs, they would not have the same function as the wider area of open space previously permitted. The smaller areas of open space would limit their useability for informal recreational activity such as ball games, restricting the activities that could reasonably take place in them. In doing so the effect of the proposal would be to undermine the quality of the permitted scheme. The proposal would fail to take the opportunity to enhance the area and the way it functions and would thus diminish the quality of development compared to the previously approved scheme, contrary to the aims of the Framework.
11. Smaller areas of open space may well be common in residential areas and even if the neighbouring development site has open space that is broken up to benefit different parts of the site, the context and scale of that site and the appeal site is different. The appeal site relates to a smaller scheme and so occupiers are within easy reach of the proposed open space. As such, there is no requirement to break up the open space. Other examples of smaller areas of open space do not therefore, lead me away from my above findings.
12. As such, the proposal would be harmful to the character and appearance of the area, in conflict with Policy SD8 of the Stockton-on-Tees Borough Council Local Plan (2019) (LP) which requires development to be designed to the highest

possible standard, responding positively to the need to ensure that new development is appropriately laid out for an attractive environment. New development should also establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live.

13. The proposal would also be contrary to the aims of paragraph 140 and the provisions of section 12 of the Framework relating to achieving well designed and beautiful places.

### **Other Matter**

14. The appeal site is located within the impact risk zone of the Teesmouth and Cleveland Coast Special Protection Area, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the habitat. However, it is not necessary for me to consider the implications of the proposal upon the protected site because the scheme is unacceptable for other reasons.

### **Planning Balance**

15. I have found the proposal to be harmful to the character and appearance of the area which is contrary to Policy SD8 of the LP. I afford this conflict with the development plan significant weight. The provisions of the Framework in relation to achieving well designed and beautiful places also weigh heavily against the proposal, as such the proposal would be contrary to the Framework, taken as a whole.
16. The provision of seven dwellings would make a modest contribution towards the area's housing supply and I note that bungalows are said to be a housing type that is in short supply. The appellant is also agreeable to the provision of two affordable units as required by the development plan. These are clear benefits of the scheme which attract moderate weight. I have also had regard to the provision of open space as part of the proposal and that appropriate standards of living conditions for existing and future occupiers can be achieved. The lack of harm on these matters and the policy compliance with various development plan policies are a neutral factor, weighing neither for, nor against the proposal.
17. Overall, the benefits of the scheme do not outweigh the harm I have identified or the conflict with the development plan.

### **Conclusion**

18. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

*F Harrison*

INSPECTOR

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# Appeal Decision

Site visit made on 30 January 2024

**by F Harrison BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 March 2024**

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**Appeal Ref: APP/H0738/W/23/3330760**

**Grove Stables, Forest Lane, Kirklevington, Stockton-on-Tees TS15 9PY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Peter Hodgson against Stockton-on-Tees Borough Council.
  - The application Ref is 23/0403/OUT.
  - The development proposed is to demolish stable block, relocate and convert into two residential units.
- 

## Decision

1. The appeal is dismissed and planning permission to demolish stable block, relocate and convert into two residential units is refused.

## Application for Costs

2. An application for costs was made by Mr Peter Hodgson against Stockton-on-Tees Borough Council. This application is the subject of a separate decision.

## Preliminary Matters

3. Site ownership certificate A has been completed on the application and appeal forms certifying that the applicant/appellant is the sole owner of the site. The Council validated the application however subsequently suggested that a section of land within the red line area is not owned by the applicant, and therefore the incorrect certificate was completed. Thereby in their view, failing to comply with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Council raised this matter with the applicant who confirmed they were content that the correct ownership certificate had been completed.
4. I note the difference in opinion between the Council and the appellant and acknowledge the submissions made by an interested party. Notwithstanding this, dispute about land ownership is a civil matter to be resolved between the relevant parties and does not alter the planning merits of the proposal. An ownership certificate has been completed and the proposal is before me, which I have assessed against the information submitted by the parties and observations from my site visit.
5. The Council have drawn my attention to an appeal decision<sup>1</sup> where the Inspector declined to determine an appeal which was found to be invalid. While the Council seek to draw comparisons, in that case it was not disputed that

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<sup>1</sup> APP/K2230/W/21/3274192

there were procedural shortcomings owing to a number of discrepancies, not least because the incorrect ownership certificate had been completed. Moreover, the inconsistencies were so large they were not readily capable of any reasonable remedy and would result in a different proposal to that originally submitted, incurring a risk of serious prejudice to interested parties. As such the context differs, the appeal decision is not directly comparable and does not lead me away from my above findings on this matter.

6. The application was made in outline with all matters reserved for future consideration. I have had regard to the indicative plans which I have treated as providing illustrative detail only. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further comments on this latest version. I am satisfied no party would be prejudiced by my taking this approach.

### **Background and Main Issues**

7. Following the submission of the appeal against non-determination, the Council has confirmed that it would have recommended refusal if it had had the opportunity to make a decision. From the evidence I have before me, together with observations from my site visit I consider the main issues to be:
  - whether the proposal would provide a suitable location for housing outside the limits to development, having regard to the accessibility of services and facilities; and
  - the effect of the proposal on the character and appearance of the area.

### **Reasons**

#### *Development outside the limits to development*

8. The appeal site falls outside of the limits to development and is within the open countryside, as identified in the Stockton-on-Tees Borough Council Local Plan (2019) (LP). Policy SD3 of the LP forms part of the Council's development strategy and sets out the circumstances where development in the open countryside would be acceptable. For new dwellings in the countryside, one such circumstance is the re-use of redundant or disused buildings that lead to an enhancement of the immediate setting.
9. Much of the appellant's submissions make reference to the re-use of a stable block for housing. However, I observed that the stable block has been demolished. It is not therefore the case that the proposal relates to the re-use of a redundant or disused building and it does not attract policy support as a consequence. The effects of the proposal on the immediate setting are discussed below as part of the second main issue.
10. My attention has been drawn to a lawful development certificate and accompanying plan<sup>2</sup> which established the state of affairs on the land known as Grove Stables at the date of the certificate application. The specified uses relate to the matters listed in schedule 1 of the certificate, not to the site in its entirety as shown on the accompanying plan. Notwithstanding the lawful

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<sup>2</sup> Ref: 96/0843/P

development certificate, and irrespective of the planning history of the wider site, further residential development at the appeal site must be assessed on its own planning merits.

11. It is suggested that the provisions of the Framework regarding brownfield land apply in support of the proposal. However, from my observations and the indicative location of the proposed dwellings the appeal site does not meet the definition of brownfield land. Given that the stable block has been demolished the use has ceased and, in any event, the presence of a stable block in one part of the site cannot be transferred to another part of the appeal site to justify the proposal.
12. Having regard to paragraph 84 of the Framework and whether the site is 'isolated', while the appeal site is in proximity to existing dwellings, these do not comprise a settlement. Furthermore, the appeal site is physically separated from the nearest settlement of Kirklevington and the connecting road is lacking of any footways. Taking these factors into account, the proposal would represent the development of isolated homes in the countryside which the Framework seeks to avoid. Moreover, none of the circumstances where isolated dwellings may be acceptable apply, including at paragraph 84c) for the reasons set out above.
13. The appeal site is located on a relatively narrow, winding country lane with poor visibility. It is subject to the national speed limit and does not benefit from footpaths or cycle paths and has no streetlights. In some places there are grass verges adjacent to the road, however these are of a narrow width. While the village of Kirklevington is a short distance away, future occupants of the proposal would have to walk on the highway which in the evenings would be unlit and would not be a particularly attractive route to take. As such, occupiers would be deterred from walking or cycling to the nearest settlement and would be reliant on the use of a car to access both services and facilities.
14. The LP development strategy seeks to deliver housing in the most sustainable way. Paragraph 83 of the Framework says that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and Section 9 of the Framework promotes sustainable transport. Transport solutions will vary between urban and rural areas however the Framework advises that patterns of growth should be actively managed so that, amongst other things, opportunities to promote walking, cycling and public transport use are identified and pursued.
15. Irrespective of whether or not appropriate access can be achieved at the site with regard to visibility splays, given my findings on the site's accessibility and the reliance on the private car, it has not been shown that the proposal would support local services at Kirklevington. Owing to the relative proximity of larger settlements nearby, occupants may well choose to drive to these settlements which offer a full range of services and facilities were linked trips could be made in one location, rather than travelling to Kirklevington. The proposal would not therefore enhance or maintain the vitality of rural communities or provide an opportunity to promote walking, cycling and public transport as advised by the Framework.
16. Overall, the proposal would not provide a suitable location for housing outside the limits to development, having regard to the accessibility of services and facilities, in conflict with Policy SD3 of the LP which directs housing to be within

the settlement limits to ensure sustainable development. It would also be contrary to the provisions of the Framework in relation to rural housing and sustainable transport.

*Character and appearance*

17. The appeal site, located within a predominantly agricultural landscape and surrounded by open fields, accommodates a number of buildings to the rear of the site that are generously set back from Forest Road. The topography is such that the appeal site is on noticeably lower ground than the fields to the west. The section of the appeal site nearest to Forest Lane has open and verdant qualities owing to an absence of development and the presence of trees and vegetation and contributes positively to the intrinsic value of the countryside beyond the settlement limits.
18. The submitted plans indicate that the proposal would introduce two dwellings in a linear pattern onto the grassed area between the existing dwellings and the access with Forest Lane. It is suggested that the proposed dwellings would be of a low height, nevertheless, the proposal would increase the amount of built form in the area which would be readily apparent in views from Forest Lane, even in filtered views through existing vegetation. The urbanising effect would erode the current openness at the site and diminish the positive contribution the site makes to the prevailing character and appearance of the area.
19. The proposal may well be able to connect to existing services and would result in an improved private access track for the existing occupiers, thereby improving their living conditions. However, by bringing development closer to the road, the proposal would represent a marked visual change and would be a detrimental intrusion into the openness currently provided by the site. The existing dwellings are located to the rear of the site, away from the road, and so do not affect the character and appearance of the area in the same way that the proposal would.
20. While the appeal site is relatively small in comparison to recent housing development to the south of Kirklevington, and despite some natural screening owing to the topography and existing vegetation, the proposal would contribute to a small, but nevertheless detrimental effect on the character of the local landscape. I have considered the other examples of residential development in the surrounding area, however they relate to the reuse of existing buildings whereas the appeal scheme would result in additional built form in the countryside. The other examples do not therefore lead me away from my above findings.
21. As such, the proposal would harm the character and appearance of the area, in conflict with Policies SD3, SD5 and SD8 of the LP. These policies, amongst other things, require new dwellings within the countryside to significantly enhance the immediate setting, be sensitive to the defining characteristics of the local area and respond positively to landscape character.
22. The proposal would also be contrary to the provisions of the Framework with regard to achieving well-designed and beautiful places and conserving and enhancing the natural environment, including recognising the intrinsic character and beauty of the countryside.

### **Other Matters**

23. It is suggested that the Framework's presumption in favour of sustainable development is engaged. However, there is no substantive evidence to indicate that the approach set out in Paragraph 11d) should be applied in this particular case. The decision should be made in accordance with the development plan unless material considerations indicate otherwise. The appellant also suggests that the LP was not properly consulted upon and as such has little weight. However, it has been found sound at examination and has been adopted. As such, it forms part of the development plan for the area and the appeal has been determined on this basis.
24. The stable block has already been demolished which has removed any potential for pollution at the water course adjacent to the site. Any rebuilding of the stable block adjacent to the existing dwellings at the site would be subject to a planning application and consideration of any effects on the existing occupiers living conditions.

### **Conclusion**

25. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed, and planning permission is refused.

*F Harrison*

INSPECTOR

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## Costs Decision

Site visit made on 30 January 2024

**by F Harrison BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 March 2024**

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### **Costs application in relation to Appeal Ref: APP/H0738/W/23/3330760 Grove Stables, Forest Lane, Kirklevington, Stockton-on-Tees TS15 9PY**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Peter Hodgson for a full award of costs against Stockton-on-Tees Borough Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission to demolish stable block, relocate and convert into two residential units.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicant is seeking a full award of costs and suggests the Council acted unreasonably in failing to determine the application. The PPG sets out examples of unreasonable behaviour which may give rise to a procedural award of costs. This includes a lack of co-operation and failure to adhere to deadlines. It indicates that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation.
4. The Council wrote to the applicant on 20 April 2023 confirming that the application had been validated and was expected to be determined by 12 June 2023. An email dated 27 April 2023 indicates that a site visit was to take place the following day. On the 12 June 2023 the Council requested an extension of time until 20 June 2023 to ensure that no challenges would be made regarding land ownership, thus providing a reason for not reaching a decision within the initial timeframe. It is clear from the evidence therefore that the Council did engage with the applicant during the course of the application and explained their reasons for not reaching a decision and delaying its determination. While

- the applicant didn't respond until 9 July 2023 it was confirmed that had they seen the email they would have been agreeable to an extension.
5. Ongoing correspondence followed between the Council and the applicant regarding the Council's concerns about land ownership at the site. I appreciate the applicant's dissatisfaction at having to recover historical information when they had confirmed to the Council that they were content that the correct ownership certificate had been completed. Nonetheless, the costs of doing so were incurred during the planning application stage and the PPG is clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage.
  6. Notwithstanding that I have come to a different conclusion regarding the validity or otherwise of the application/appeal, I do not find that the Council's correspondence was misleading, and the failure to determine the application was not a deliberate or unreasonable action. Moreover, there is no substantive evidence to indicate that the Council amended the status of the planning application from valid to invalid. Rather, the Council indicated in an email dated 11 July 2023 that the application was moving to a decision for refusal based on the site being outside of the settlement limits.
  7. While it is regrettable that the Council failed to reach a decision within the prescribed period, they had indicated that they were resolved to refuse the proposal and the applicant was aware of this. As such, even if the application had been determined by the Council, it is likely that an appeal would have been an inevitable outcome. Accordingly, even though the Council did not deal with the application in a timely manner an appeal could not have been avoided and it therefore follows that the applicant has not been put to unnecessary or wasted expense.

### **Conclusion**

8. As set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*F Harrison*

INSPECTOR





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# Appeal Decision

Site visit made on 6 February 2024

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 5<sup>th</sup> March 2024**

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**Appeal Ref: APP/H0738/W/23/3329861**

**30 Durham Street, Stockton-on-Tees TS18 1QE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Joe Fraser against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 23/0163/COU, dated 26 January 2023, was refused by notice dated 27 March 2023.
  - The development proposed is the conversion of existing 3 bed dwelling to form 2 no. 1 bed flats including demolition of ground floor extension and installation of external staircase.
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## Decision

1. The appeal is allowed and planning permission is granted for conversion of existing 3 bed dwelling to form 2 no. 1 bed flats including demolition of ground floor extension and installation of external staircase at 30 Durham Street, Stockton-on-Tees, TS18 1QE in accordance with the terms of the application, Ref 23/0163/COU, dated 26 January 2023, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 2275/01; Existing Site Plan 2275/02; Proposed Site Plan 2275/03; Existing Floor Plans and Elevations 2275/04; Proposed Floor Plans and Elevations 2275/05.

## Application for costs

2. An application for an award of costs is made by Mr Joe Fraser against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

## Main Issue

3. The main issue is the effect of the development on the character of the surrounding area.

## Reasons

4. The appeal property is a modest sized terraced house in a short row of properties that front onto the pavement with a gated alleyway to the rear. It is located in a small area of similar terraced housing close to Stockton-on-Tees town centre. The Council states that the area is characterised by a high percentage of rented properties, where they consider the population to be transient in nature. I have no evidence before me to dispute this.

5. The proposal would involve the removal of a single storey outrigger from the rear of the property and the installation of an external staircase. The Council have raised no objection to this element of the proposal.
6. Although the appellant has drawn attention to a small number of other properties close by which have been converted into flats, the number of times that this type of development would be likely to be replicated in the area is limited due to the relatively small number of similar terraced properties in this area. I have not been provided with any evidence that the proposal would be likely to lead to an increase in on-street parking which may lead to parking pressure in the area. Nor, has it been demonstrated that there is there an unacceptable level of crime or anti-social behaviour in the area which could be attributed to the type of accommodation proposed.
7. I have no substantive evidence before me to suggest that one-bedroomed flats in this location would be more likely to attract a more transient population than a modest three-bedroomed property as exists would, especially given that the Council consider that the area is already populated by a transient population.
8. I have carefully considered the Council's argument that the grant of planning permission would set a precedent for other similar developments in the area. Whilst they may wish to guard against concentrations of flats in any particular area, there is no location specific policy to that effect in place, nor I has a particular over-proliferation of flats in this area been pointed out to me. Furthermore, I have not been made aware that there is a latent pressure for this type of development in the area. Each application and appeal must be determined on its individual merit, and a generalised concern of this nature does not justify withholding permission in this case.
9. I therefore conclude that the proposal would not result in harm to the character of the surrounding area. There would be no conflict with Policy SD8 of the Stockton-on-Tees Borough Council Local Plan 2019, which, amongst other things, seeks to ensure that development is designed to the highest possible standard and respond positively to the character of an area. There would also be no conflict with the aims of the paragraphs 135 and 139 of the Framework, where it seeks to achieve well-designed places.
10. In arriving at this conclusion, I have taken into account the appeal decision at Roseberry View, Thornaby<sup>1</sup>, which was for a similar development, where the Inspector came to an alternative conclusion. However, from what I have seen and read that appeal was located in a much larger area of terraced housing which is characterised by family housing with greater pressure from conversions to flats. Furthermore, the appeal was subject to evidence that the type of development proposed would lead to an increase in anti-social behaviour which was prevalent in that area, which is not the case in the appeal before me. I have also had regard to an appeal decision at Railway Cottages, Eaglescliffe<sup>2</sup>. This proposal was a two-storey side extension to create additional living accommodation and is therefore not directly comparable to the case before me. These appeal decisions are therefore of limited relevance in my consideration of this appeal, and I have afforded them limited weight.

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<sup>1</sup> APP/H0738/W/21/3272910

<sup>2</sup> APP/H0738/W/18/3205467

## **Other Matters**

11. The appeal site lies within the impact zone of the Teesmouth and Cleveland Coast Special Protection Area (SPA) which has been identified as an area where nutrient neutrality is a matter for concern. It is therefore necessary for me to consider whether the proposal has the potential, either alone or in combination with other development in the area, to result in the deterioration of water quality due to additional nitrogen input from wastewater discharge and whether this would have a significant effect on the environmentally sensitive SPA.
12. Given the type and size of both the existing accommodation and that proposed to be created, it is highly likely that its occupation would result in a net decrease of one resident when compared with the existing accommodation. The impact of the development, therefore, would be at its worst neutral. As a result, it would not have an adverse impact on the integrity of the SPA. As the competent authority it is therefore not necessary for me to carry out an Appropriate Assessment to secure mitigation for any adverse effects on the SPA. Consequently, the proposal would comply with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) and paragraph 188 of the Framework. A condition requiring the purchase of credits under Natural England's Nutrient Mitigation Scheme is not therefore necessary.

## **Conditions**

13. In the absence of suggested conditions from the Council I have imposed conditions in line with advice in the Framework and Planning Practice Guidance. In addition to the standard time limit, a plans condition is also considered reasonable in the interests of clarity. No further conditions are considered necessary.

## **Conclusion**

14. For the reasons given above, having considered the development plan when read as a whole and all other issues raised, I conclude that the appeal should be allowed subject to the conditions set out above.

*K L Robbie*

INSPECTOR

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## Costs Decision

Site visit made on 6 February 2024

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> March 2024**

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### **Costs application in relation to Appeal Ref: APP/H0738/W/23/3329861 30 Durham Street, Stockton-on-Tees TS18 1QE**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Joe Fraser for a full award of costs against Stockton-on-Tees Borough Council.
  - The appeal was against the refusal of planning permission for the conversion of existing 3 bed dwelling to form 2 no. 1 bed flats including demolition of ground floor extension and installation of external staircase.
- 

### **Decision**

1. The application for the award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It goes on to indicate that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate a reason for refusal on appeal and vague generalised or inaccurate assertions about a proposal's impacts which are unsupported by any objective analysis.
4. The appellant states that the appeal was unnecessary because the proposal complies with the development plan and the refusal of planning permission has prevented and delayed development which should have been permitted. The appellant asserts that the Council's reasons for refusing planning permission are vague and unsubstantiated.
5. I consider that the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the decision. It also clearly states which policies of the Stockton-on-Tees Local Plan and the National Planning Policy Framework that they considered proposal would conflict with and therefore the Council have not behaved unreasonably in that respect.
6. Having carefully considered the applicants' claim for costs, I do not agree that the Council have failed overall to substantiate or rationalise their reasons for refusing the application. Planning law is clear that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. It was the Council's assertion that the proposal did not accord with policies in the development plan, and I am satisfied that they have set out clearly why they think that is the case. Whilst I appreciate that there are

similarities between the decision in the case before me and others elsewhere in the borough, this in itself does not amount to unreasonable behaviour.

7. The appeal has not led the applicants to incur unnecessary or wasted expense to demonstrate their case. Simply spending time and instructing an agent to undertake an appeal is not considered an unreasonable expense in this instance.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. As a result, an award of costs is not warranted and accordingly refused.

*K L Robbie*

INSPECTOR