

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 30 April 2008**

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<b>APPLICATION REF. NO:</b>	<b>08/00113/FUL</b>
<b>STATUTORY DECISION DATE:</b>	<b>8 May 2008</b>
<b>WARD/PARISH:</b>	<b>MIDDLETON ST GEORGE</b>
<b>LOCATION:</b>	<b>Proposed Business Park, Durham Tees Valley Airport, Middleton St George, Darlington</b>
<b>DESCRIPTION:</b>	<b>Office development comprising 11 No. Units, car parking, access and associated landscaping (additional scoping survey received 26 February 2008) (amended plans received 3 February 2008)</b>
<b>APPLICANT:</b>	<b>SVEN INVESTMENTS</b>

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**APPLICATION AND SITE DESCRIPTION**

The application site, which measures some 4.15 hectares in area, is situated on the north eastern edge of the Durham Tees Valley Airport complex.

It is bounded to the north by the Darlington to Saltburn branch railway line beyond which is the A67 trunk road. Middleton St George hospital adjoins the site to the west and to the east and south lies the aerodrome.

The site is occupied by a partially constructed hotel/leisure complex including the skeletal framework of a former hanger, which dominates the site. Work on the development stopped some years ago. Building materials and rubble are scattered around the site, which is essentially flat. There is small group of willow trees on the site, which are of no visual significance. A number of ponded areas are located around the site.

This is a detailed application for the 14,560 sq m of office space in eleven separate two storey blocks of either 1,120 sq m. or 2,240 sq m. Each block can be sub-divided to form individual office suites ranging in size from 50 sq m. to 2,000 sq m. All the units are located close to the site boundaries, surrounding a single parking area with 470 spaces.

The scheme also includes the provision of a wildlife pond in the north western corner of the site. Extensive tree planting is to be provided along the northern site boundary alongside the railway line, with additional tree planting around the remaining boundaries and within the site. Although no specific planting details have been submitted with the application.

Access to the site would be via a link road on the western boundary, which connects to one of the main airport access roads.

The following supporting documents are submitted with the application:-

- Design and Access Statement
- Planning Statement
- Transport Assessment
- Food Risk Assessment
- Ecology Report

## **PLANNING HISTORY**

The application site has an extensive planning history. Only the most recent and relevant entries in the planning register are included below: -

97/598 - Planning permission was granted in June 1998 for the redevelopment of the existing "Top Spin" tennis centre and conference facilities together with 128 bedroom hotel, parking and associated supporting facilities.

98/509 - Modification to the design and size of the leisure building was approved in September 1998.

99/716 - A variation of planning permission 97/598 was granted in December 1999 to revise the proposed hotel from two, two storey buildings to a single three storey building.

## **PLANNING POLICY BACKGROUND**

### **Relevant Planning Policy**

The starting point for considering the proposal is the statutory development plan. The relevant parts in respect of the proposed development is as follows:-

### **Borough of Darlington Local Plan (1997, with alterations 2001)**

- E2 - Development Limits
- E12 - Trees and Development
- E14 - Landscaping of Development
- E16 - Appearance From Main Travel Routes
- E23 - Nature and Development
- E29 - The Setting of New Development
- E46 - Safety and Security
- EP9 - Teesside Airport Employment Land - North
- T12 - New Development-Road Capacity
- T13 - New Development-Standards
- T24 - Parking and Servicing Requirements for New Development
- T31 - New Development and Public Transport
- T52 - Drainage Infrastructure

### **Adopted Regional Spatial Strategy - RPG1, Regional Planning Guidance for the North East (2002)**

- EL7 - Airport, Port and Rail-Based Development
- T17 - Airports

## **Emerging Replacement RSS - North East of England Regional Spatial Strategy (Secretary of State's Proposed Changes to Submission Draft, February 2008)**

18 - Employment Land Portfolio

18A - Office Development Outside of City and Town Centres

21- Airports

These policies carry considerable weight as the Government has carried them through from first to second Proposed Modification stages without significant change in respect of airport related development and development of/at Durham Tees Valley Airport.

### **Government Planning Policies**

PPG4 - Industrial, Commercial Development and Small firms (1992)

PPS6 - Planning For Town Centres (2005)

PPS9 - Biodiversity and Geological Conservation

PPG13 - Transport (2001)

PPS25 - Development and Flood Risk

### **RESULTS OF CONSULTATION AND PUBLICITY**

Two letters of objection have been received to the proposed development. One from a local resident on the other from planning consultants acting on behalf of Durham Tees Valley Airport Limited.

The following issues have been raised:-

- *The application site is above the 0.5ha threshold where Environmental Impact Assessment (EIA) could be required. Despite this no request has been made for a screening opinion and it is not clear from the application documentation whether this has been considered. We consider that the potential cumulative impact of the proposal together with other recently approved developments in the vicinity of the Airport must be considered.*
- *The applicants have made no attempt to consult or engage with the local community about the proposals. This is contrary to the objectives of the Council's Statement of Community Involvement.*
- *The flood risk assessment submitted with the application is inadequate. The fact that the site is not within flood plain does not indicate a lack of any wider catchment harm. Foul and surface water drainage infrastructure is at capacity. The proposal does not attempt to consider the capacity of the existing drainage infrastructure at the Airport and any wider implications it would have in terms of necessary improvements to the system.*
- *The proposed expansion of the Airport will include investment in additional drainage capacity. Any further developments which would increase the loadings on existing infrastructure should not be approved without similar investment in upgraded infrastructure. Details of proposed works should be submitted as part of the application. In the absence of details it would not be appropriate to defer consideration of drainage by condition. The information should be requested and considered as part of the application or permission should be refused.*
- *The proposal conflicts with national policy on the location of offices in the town centre. Whilst DTVAL accept that there may be future need for further offices at the Airport, any need for such additional space is unproven. In any event even if a need could be proven this*

*site is not well related to the main Airport infrastructure and is not very accessible on foot. Other sequentially preferable sites are available that could meet any future identified need.*

- *Why does the Darlington/Stockton area need more offices? Many new and old offices stand empty in the local vicinity and have done for some time.*
- *The applicant's statement acknowledges that there is a probability of Great Crested Newts (GCN) being present on the site. Despite this no adequate survey to establish the presence or otherwise of GCN has been undertaken as part of the application. Natural England has previously insisted that such surveys be carried out on sites in and around the Airport prior to determination of applications. A consistent approach should be adopted in this case.*
- *The application site is served by unadopted roads which do not meet with modern design standards and in many places have no adequate footway and inadequate junction radii and visibility splays. There are no plans in the TA, or in other planning application documents that show the full access proposals. There is no justification of its suitability or safety to serve the development, and DTVAl is aware that the applicants have no rights to make any improvements to these private roads.*
- *Given the issues raised by the Highways Agency in respect of DTVAl's proposals and the time taken to resolve these, it is considered essential that the applicants address the off site highways impacts of the proposal. In the absence of such information the proposal should be refused.*
- *Traffic data on which the TA is based is out of date and as such the proposals under-estimate its traffic impacts and does not provide adequate off-site mitigation of likely traffic impacts.*
- *The proposed development will change the look of the local landscape.*
- *If there are no plans in place for tenants why should the buildings be constructed?*

Middleton St George Parish Council has no objection the proposed development subject to the Borough Council ensuring that the development is for airport related uses only.

Campaign to Protect Rural England comment as follows:-

- *The proposed development is located on land allocated for employment purposes so is acceptable on that count.*
- *The Borough of Darlington local Plan Policies EP9 and EP10 require development to be restricted to that requiring a location at or adjoining the airport, which we fully endorse.*
- *If the application can be fully enforceably conditioned to limit initial and future occupiers of the premises to organisations requiring a location at or adjacent to the airport we are content with the application. If this is not possible then we would wish to register our objection.*
- *There are concerns at the projected number of employees and the implications of their travelling to and from work on the highways infrastructure as the site is not particularly well served by public transport.*

North East Assembly have remarked as follows:-

- *There are some concerns regarding the principle of the proposed development, and it is understood that the Council is yet to establish the precise nature of the scheme or its potential end user. This is particularly critical given the location of the site at Durham Tees Valley Airport.*
- *The policy approach in RPG1 policy EL7 and the Regional Spatial Strategy (RSS) further proposed changes policy 21 has sought to restrict the development of land at or close to*

*airports to that directly related to the airport. This is to avoid the loss of land that would potentially be required for operation uses connected to the airport. The development proposal seeks to erect a suite of 11 B1 offices. The supporting statement does not clarify the relationship of the proposed office development to airport related business, or confirm whether the end users can be considered to be ancillary or a supporting function to the airport. There is concern therefore that the scheme presents a conflict with the objectives of policy 21 of the RSS further proposed changes.*

- The development proposal would only be in conformity with policy 21 of the RSS further proposed changes if the offices are restricted to airport related uses (through a planning condition) or alternative uses can be justified in this location. Paragraph 3.35 of the RSS further proposed changes explains that it may be acceptable to consider other appropriate uses at the airports, but only if a valid planning case could be made for locating the proposed use at the airport, rather than other locations in the region. In assessing a planning case for non-airport related uses the Council should be satisfied that the proposal is fully consistent with other policies in the RSS. Of particular relevance will be policies 3, 18A, and 21 of the RSS further proposed changes. These policies relate to the sequential approach to development, the direction of B1 office accommodation to town centres in the first instance, and the need to safeguard an adequate supply of land for airport related uses, to ensure the sustainable expansion of the airport in future.*

One North East have made the following comments:-

- It is understood that the application site is allocated for employment use relating to development that requires a location at or adjacent to an airport in the Darlington Local Plan (1997), and that this policy has been "saved".*
- As you are no doubt aware, One North East and Tees Valley Regeneration are working with Peel Holdings Plc to realise the future expansion of Durham Tees Valley Airport, one of Tees Valley Regeneration and the Agency's five strategic regeneration sites in Tees Valley, via a Joint Venture.*
- I can confirm that One North East has no objections to the application. In assessing the application the Agency would however, urge the Local Planning Authority to be mindful of the established regeneration objectives at the Airport.*
- The Regional Economic Strategy promotes the need for quality of place within existing and proposed development. With this in mind, the Agency welcomes the applicants aspiration towards achieving a "Very Good" BREEAM rating.*
- In line with the Government objectives to generate 10% of electricity from renewable energy sources by 2010 the application details regarding the provision of renewable energy measures within the scheme should also be provided.*

## **PLANNING ISSUES**

The main issues to be considered in the determination of this application are:-

- Planning Policy
- Design and Layout

- Residential Amenity
- Ecology
- Foul and Surface Water Drainage
- Flooding
- Highway Implications
- Other Matters

## **Planning Policy**

### **The Development Plan**

The airport, and the application site, lie outside the development limits identified by saved Local Plan Policy E2. However saved Local Plan Policy EP9, which applies to largely developed or previously developed former defence land and buildings to the north-west of the airport runway, including the application site, makes an exception for 'development requiring a location at or adjacent to an airport'.

Policy EL7 of the current regional spatial strategy, RPG1, states that the development of land at or close to airports should be restricted to airport related development in order to avoid the loss of expansion potential.

Neither these policies, or related explanatory material, mentions offices within their definitions of acceptable airport-related uses. However emerging replacement RSS Policy Policy 21, which supports 'the sustainable expansion of facilities ... to accommodate and cater for the anticipated growth in passenger numbers to 3 million passengers per annum at Durham Tees Valley Airport by 2016' and allows for the 'expansion of airport-related development within currently allocated land', explicitly includes offices, as ancillary uses or supporting functions. This is qualified by cross-referring to the guidance in PPG13 (see later) that: "the relationship [of the development] to the airport-related business should be explicitly justified, be of an appropriate scale relative to core airport related business and be assessed against relevant policy elsewhere in planning policy guidance".

Emerging replacement RSS Policy 18A states 'city and town centres will be the preferred locations for major office development which is not ancillary to other uses', but makes an exception for those 'already allocated in existing adopted development plans'.

### **National Planning Policy**

Whilst the development plan is the starting point for consideration of development proposals, national planning policy is a material consideration, particularly where it is more recent.

PPG13 states that local planning authorities should consider the extent to which proposed developments at airports relate to the operation of the airport, and are sustainable given the prevailing and planned levels of public transport. It identifies four categories of development, ranging from 'operational needs' to 'non-related'. Offices are included in the penultimate 'less directly related' category, but with proposals needing to be subject to the policy test already referred to.

PPS6 is the principal Government guidance on office development, including it within a range of 'main town centre uses'. The Government's key objective here is to promote and enhance the vitality and viability of town centres. Applicants putting forward proposals for main town centre uses outside a town centre are as a general rule required to demonstrate the need for the

development, that it is of an appropriate scale, that there are no more central sites for it (ie that the applicants have adopted a sequential approach to site selection), that there would be no unacceptable impacts on existing centres and that the location is accessible.

However there are exemptions where proposals accord with up-to-date development plan policies. Also consultation draft PPS4 states that where office development is ancillary to other forms of economic development (which includes 'transport uses related to ports, airports and other intermodal freight terminals') that is not located in a town centre there should be no requirement for such offices to be in a town centre.

### **Land Use Planning Policy Conclusions**

Were the proposal for unrestricted office use, it would be expected to be located within the Darlington urban area development limits in employment areas identified in saved Local Plan policies, with a preference for previously developed land in easily accessed locations. However location on the proposed site could be considered favourably provided the proposed office uses require an airport location (saved Local Plan policy) and/or are ancillary to the airport function (national and emerging RSS policy).

In this connection it should be noted that the Council has already granted outline planning permission for a larger office development (18600 sq m) on a nearby unallocated greenfield site, for Durham Tees Valley Airport Limited (04/01428/OUTE). Provided that the applicants for the current proposal can supply equivalent justification of the relationship of the application proposal to the functioning of the airport, permission could be granted subject to a condition limiting office use to aviation/airport related uses similar to that attached to the existing planning permission.

In terms of supporting information to justify the proposal this is provided in the planning statement, which accompanies the application and relies entirely on existing and emerging regional and local plan policies.

Turning to planning permission 04/01428/OUTE the justification put forward by the applicants in their business case put reliance on the need for B1 office use on a requirement to meet demand that will occur as a direct consequence of the expansion of the airport including floorspace from the airport operator itself and services related to the airport's main functions.

Consequently officers are of the view that similar justification has been provided.

### **Design and Layout**

The proposed buildings would be two storey in height and of a contemporary design. Offices within each building would be grouped around a central atrium, designed to allow daylight to illuminate these internal areas. Elevational materials would comprise a mixture of solid panels and reflective glazing in an abstract pattern.

The buildings would be arranged around the site perimeter and overlooking a central car parking area.

The Council's Urban Design Consultant has made the following assessment of the scheme:-

"The scheme suffers from a poor entrance treatment and the main access leads to a sea of car parking with only very distant enclosure.

There is a lack of natural surveillance over the main route into the site due to the placing of the buildings.

The design of the buildings should take into consideration the views from the major transport corridors to the north and as proposed are neither of the quality required or go any way of reinforcing local distinctiveness.

The habitat creation should be more extensive. SUDS should be incorporated and habitats/nature should not be confined to the backs/corners but could be integrated into the landscaping."

Whilst the issues relating to the design of the scheme are not altogether satisfactory it is considered that these issues are not insurmountable should the scheme be re-submitted.

### **Residential Amenity**

There are no dwelling houses within the immediate vicinity of the site. A hospital complex adjoins the western boundary of the site. However the physical relationship between the existing hospital buildings and the proposed office buildings is unlikely to give rise to conditions that would cause detriment to the occupiers of the hospital.

### **Ecology**

A report has been submitted with the application, which assesses the existing ecological interest of the site. The report has identified the presence of great crested newt breeding ponds in the area and also the presence of badger and eight species of bat common to the North East of England. However, the report reveals that there was no evidence of badgers within the site itself. It also states that there is no provision of habitat for bats to roost.

Nevertheless the report concludes:-

*"The site may have a significant importance in ecological terms. There is the probability that GCN's may be using the site especially the ponds for breeding and the surrounding areas of soil and rubble for hibernation".*

The ecological consultants also recommend that the site be surveyed to establish the presence of this species.

Natural England have been consulted on the application but have remarked that there is insufficient information for them to provide comments. Nonetheless they have made the following remarks:

*"the report 'Scoping Survey, Skyline Business Park, Naturally Wild, Version R2a, 21/01/08,' states on page 5 that 'a GCN survey is required (March to May 2008) to ascertain the usage of the wet areas previously mentioned, which may later require a DEFRA licence application.' Obviously the results of such surveys cannot yet be known, and so, a mitigation strategy, if one is required, cannot yet be developed."*

Paragraph 99 ODPM Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations and their impact within the planning system) states:-

*"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to*



*coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted".*

A GCN Survey has not been submitted although the applicant's agent has informed officers that a full survey is currently being undertaken. It has been confirmed that there is a presence of GCN on the site but until the full survey work has been completed the Council's Countryside Section have advised that the extent of mitigation measures that may be required will not be known.

Members will be aware that the Council as the Local Planning Authority is expected to meet Government performance targets in determining planning applications. As the GCN survey and any subsequent mitigation strategy has yet to be provided, which will also require further consultation, this will result in the application being determined outside the Government's target period.

In view of this lack of important information officers cannot come to an informed view on the possible impact on this protected species or the mitigation measures that may be necessary should they be required.

Whilst it is acknowledged that there is an extant planning permission on this site Government Circular 06/2005 paragraph 98 states:-

*"The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.*

#### **Foul and Surface Water Drainage**

Northumbrian Water have advised that the Goosebeck Sewage Treatment Works to which the development would discharge is at full capacity and cannot accept the foul flows it is likely to generate.

Nevertheless they have advised that they would raise no objection to the application subject to a condition requiring the submission and approval of a scheme for the treatment of foul flows from the development and that it shall not be occupied until the scheme has been completed and commissioned.

By way of background information and more detailed reasoning for this condition they have provided the following comments:-

*"The Goosebeck Sewage Treatment Works (STW) is at full capacity, its effluent discharges to a very small water watercourse and any expansion of the STW would be difficult to achieve without the consent of the Environment Agency (EA). Discussions have been held in the past with the developer of the airport to re-organise the airport's drainage system that would release some capacity at Goosebeck STW. The re-organised drainage system would drain to another STW at Middleton One Row which itself would be replaced with a transfer pumping station to pump the foul flows to the STW at Stressholm in Darlington. To date there have been no firm proposals by the Airport developer to carry out the re-organisation of the airport drainage system. Nevertheless NWL is proceeding with the project to transfer the Middleton One Row STW flows for its own requirements but the earliest start date for construction would not be until the end of 2009 and may be later.*

*On completion of this scheme, and in the absence of any re-organisation of the airport drainage system by the developer, there will still not be any capacity at the Goosebeck STW. A feasibility study is required to review the drainage options for development in and around the airport."*

### **Flooding**

The site is not within a floodplain however the application is of a type on which the Council is required to consult the Environment Agency. The Agency has stated that they have objections to the proposed development but recommend the imposition of a condition to any approval to control surface water run-off.

### **Highway Implications**

A Transport Assessment has been submitted with the application, which identifies the need to carry out local highway improvements for the increase in vehicular traffic flows as a consequence of the proposed development. The Highways Agency has been consulted on the application and has advised that they have a number of issues which require addressing before the Agency would be in a position to agree the impact of the proposals on the highway network and necessary road improvements.

The Council's Transport Policy Section and Highways Manager have also raised a number of concerns. Mainly regarding its accessibility by modes of transport other than by car. Rail connectivity to the site is poor. Whilst well sited near the airport rail halt trains only stop once a week, on a Saturday. The site is not on a bus route. Although buses run to the airport terminal and Spa Hotel these are some distance from the site and may not be attractive to users of the proposed development. The Transport Policy Section considers that the proposed development may be premature pending improvements to the public transport system, which serves the airport. Nevertheless they advise that improvements could be made to the site layout, and also off site improvements to footpaths, cycle routes and bus stop facilities, which could assist in making the site more accessible to alternative modes of transport. These measures would need to be achieved through a Section 106 Agreement.

The Council's Highways Manager has raised specific concerns in respect of pedestrian access to the site and the vehicular access link road which connects to the Airport spine road which are as follows:-

*"The pedestrian routes to the site are not well defined, there are no dedicated pedestrian facilities on the road providing the main vehicular access to the site and as the road is only 5.5m wide there is no opportunity to provide any safe pedestrian route at this location. Other pedestrian accesses to the site do not link to any defined /safe pedestrian routes on the wider highway network.*

*Also the vehicular access to the site is over-used, very poorly maintained and poorly lit roads. The condition of these roads is of concern as they do not provide an acceptable infrastructure to serve this type of development."*

In view of this he has recommended that the application be refused.

It is possible to achieve highway improvements to address such concerns by way of a 'Grampian Condition' however there is no certainty that they could be realistically achieved as much of the access road and land either side of it which would be required for dedicated footpaths are not in the applicant's control.

**Other Matters**

One of the grounds of objection is that an Environmental Impact Assessment (EIA) could be required. Whilst the Regulations set out indicative criteria and thresholds to assist Local Planning Authorities in deciding whether or not an EIA is necessary these are not mandatory other than Schedule 1 developments and it is for Authorities to apply them on a case by case basis. In this particular instance it was considered that the proposed development would not result in any significant impacts on the environment and therefore the submission of an assessment was not required.

**SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

**CONCLUSION**

The application site lies within an area allocated for airport employment land as identified in the development plan. The principle of development in this location is therefore considered acceptable. However it is considered the design and layout of the scheme would have a poor visual impact when viewed from the Darlington to Saltburn branch railway line, a main travel route through the Borough. It has been established that Great Crested Newts are present on the site but without full detailed survey work, which has not been submitted with the application, officers cannot come to an informed view on the possible impact on this protected species or the mitigation measures that may be necessary should they be required. In terms of access arrangements it is considered that the proposed access road to the site is unsatisfactory and would result in conditions that would be hazardous to pedestrians and motorist alike.

**RECOMMENDATION**

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASONS: -

- 1) The site is within close proximity of known Great Crested Newt habitat, however insufficient information has been submitted with the application to establish the presence or otherwise of this protected species on the site. Without the submission of full and detailed ecological survey work the Local Planning Authority is unable to establish the degree of mitigation works that may be required to ensure the protection of this protected species.
- 2) The roads providing access to the site are not of the condition nor are the roads maintained to the standard necessary to accommodate the volume and type of traffic likely to be generated by the proposed development. In addition the development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional hazards to all users of the road. The development would thereby be contrary to Policy T13 - New Development - Standards of the Borough of Darlington Local Plan 1997.

