

Public Document Pack

Date Tuesday, 10th June, 2014
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Julia Cleary

Supplementary Agenda Planning Committee

PART 1- OPEN AGENDA

7a Land to Rear of Gateway Avenue, Baldwins Gate; Richborough Estates; 13/00426/OUT (Pages 3 - 68)

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By virtue of paragraph(s) 1, 2, 3, 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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The application is for outline planning permission for the erection of up to 113 dwellings and associated works at land at Gateway Avenue, Baldwin's Gate. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval. The proposal now includes a construction traffic access route.

The application site lies on the northern side of Newcastle Road outside the village envelope of Baldwin's Gate and within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map. The main site area is approximately 5.6 hectares.

The 13 week period for the determination of this application expired on the 27th November 2013. The applicant has to date agreed to extend the statutory period until 25th February 2014.

A decision on this application was deferred at the meeting of the Committee held on 7th January to enable Members to visit the application site. This report has been revised principally to take into account new material received since the previous report was prepared.

RECOMMENDATIONS

A) Subject to the applicant entering into a Section 106 obligation by 14th April 2014 to secure the following:

- i. A contribution of £442,146 (on the basis that the development as built is for the full 113 units and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy, towards the provision of education facilities at Baldwin's Gate Primary School and Madeley High School**
- ii. In perpetuity, provision of 16% of the dwellings as affordable units**
- iii. An appropriate financial contribution, as determined by the Head of Planning, towards the off-site provision of the equivalent of 9% of the number of dwellings as affordable units**
- iv. Either a maintenance contribution calculated on a rate per dwelling of £1,920 or a management agreement for the long-term maintenance of the open space on the site**
- v. A contribution of £2,150 towards travel plan monitoring**

Permit subject to conditions concerning the following matters:

- 1. Standard time limits for submission of applications for approval of reserved matters and commencement of development**
- 2. Reserved matters submissions**
- 3. Means of access including details of surfacing**
- 4. Layout of site including disposition of buildings and provision of adequate parking and turning within the curtilage**
- 5. Means of surface water drainage**
- 6. Details of pedestrian crossing on the A53 and scheme for improvement of public footpath from site to A53**
- 7. Construction Traffic Management and Routeing Plan including requirement for provision of construction access as detailed in submission, and not utilising either Gateway Avenue, or Sandy Lane/Woodside**
- 8. Implementation of Travel Plan**
- 9. Contaminated land**
- 10. Noise assessment**
- 11. Internal and external noise levels**
- 12. Details of the disposal of foul sewage**
- 13. No building over the public sewer that crosses the site and its access strip**
- 14. No surface water to be discharged directly or indirectly to the combined sewer network**
- 15. Tree protection**
- 16. Written scheme of archaeological investigation**
- 17. Development to be carried out in accordance with the approved Flood Risk Assessment (FRA)**
- 18. Boundary treatments**
- 19. Approval of details of play facilities and timing of provision of open space and these facilities**
- 20. Any reserved matters application to comply with the Design and Access Statement taking into account views received from the Highway Authority on the indicative layout**
- 21. Construction management plan,**
- 22. Details of reinstatement of land required for construction traffic access, once construction is complete**
- 23. Details of the track's specification including arrangements for surface water drainage**
- 24. Visibility splays in accordance with Construction Access Plan**
- 25. New hedgerow post removal of existing hedgerow**

B) Should the matters referred to in (i), (ii), (iii), (iv) and (v) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure appropriate provision for required education facilities, an appropriate level of affordable housing, the provision of adequately maintained public open space, and measures to ensure

that the development achieves sustainable development outcomes, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendations

In the context of the Council's inability to demonstrate an up to date 5 year plus 20% supply of deliverable housing sites, it is not appropriate to resist the development on the grounds that the site is in within the rural area outside of a recognised rural service centre. The adverse impacts of the development - principally the extension of the village into the countryside and the loss of best and most versatile agricultural land – do not significantly and demonstrably outweigh the benefits of the development, which is sustainable, and accordingly permission should be granted, provided the contributions and affordable housing indicated in recommendation (A) are secured.

Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application

No amendments were considered necessary during the course of the application. Officers have had appropriate meetings/conversations with the applicant's representatives where necessary to progress the determination of the application, and the Council entered into a Planning Performance Agreement with respect to the application.

Policies and Proposals in the approved Development Plan relevant to this decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS)

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP2	Spatial Principles of Economic Development
Policy SP3	Spatial Principles of Movement and Access
Policy ASP6	Rural Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP2	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N17	Landscape Character – General Considerations
Policy N21	Areas of Landscape Restoration
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy B3	Other Archaeological Sites
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other material considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

Draft National Planning Practice Guidance (August 2013)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

Circular 11/95 – The use of conditions in planning permissions

Supplementary Planning Guidance/Documents

Whitmore Village Design Statement SPG (2002)

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

Space Around Dwellings SPG (SAD) (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)

Planning for Landscape Change – SPG to the former Staffordshire and Stoke-on-Trent Structure Plan

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2008/09

Relevant Planning History

1961	NNR2177	Private housing estate	Refused
1963	NNR2879	Residential development	Refused
1964	NNR3130	Residential development	Refused and subsequent appeal dismissed by the Minister of Housing and Local Government 5 th April 1965

Views of Consultees

The **Landscape Development Section** has no objections in principle to this application. It is requested that the play equipment on the open space area meets the Fields in Trust Locally Equipped Area for Play (LEAP) requirements and that it can be naturally surveyed by the housing, and links into the surrounding landscape. The proposed retention of hedgerows and trees is supported and this, along with the proposals to strengthen the boundaries, would minimise the visual impacts of the proposal on the wider landscape. Tree protection would be required for all trees/hedges to be retained along with a programme of necessary tree works. A maintenance contribution of £216,960 for the 113 dwellings or a management agreement for the long-term maintenance of the open spaces on the site would also be required.

The **Highway Authority** has no objections subject to conditions requiring details of layout, surface water drainage and road construction, details of the proposed pedestrian crossing on the A53 to the east of the junction with Gateway Avenue incorporating “call loops” or sensors on Gateway Avenue, submission and approval of a Construction Traffic Management Plan and implementation of Travel Plan. A Travel Plan monitoring fee of £2,150 is requested.

Comments are made regarding the indicative layout and it is stated that the access arrangements onto the A53 via Gateway Avenue have been given careful consideration in relation to their safety and ability to accommodate traffic associated with the development. In summary it is stated that Gateway Avenue (4.8 m to 4.9m) is acceptable to serve the proposed development and the emergency access onto Hillview Crescent is viewed as acceptable even though it does not create a separate link onto the A53. The section of Gateway Avenue that would not benefit from the emergency link is relatively short with low speeds and good forward visibility reducing the likelihood of an accident. If an accident were to occur it is considered that it would be relatively minor in nature and could be cleared quickly minimising delay to road users. The junction of Gateway Avenue and the A53 has been considered in terms of capacity and safety and the modelling undertaken by the applicant demonstrates that the current priority junction serving Gateway Avenue is capable of accommodating the development traffic. In addition, to assist right turn movements at this junction and provide an element of traffic

calming to reduce vehicular speeds, the imposition of a mini roundabout was considered. However, following further design work it came to light that there were constraints on its delivery so it has been agreed that the existing junction into Gateway Avenue will remain unaltered but with the option of providing call loops along Gateway Avenue to assist egressing traffic by interacting with the proposed pedestrian crossing on the A53. A Stage 1 road safety audit confirms that the proposals are acceptable in road safety terms.

They have requested that condition 2 recommended on their consultation response dated 12th December 2013 which reads:

'No development hereby approved shall be commenced until full details of the proposed pedestrian crossing on the A53 to the east of the junction with Gateway Avenue incorporating call loops on Gateway Avenue, illustrated on drawing no. Figure 6.1 Rev B which shall thereafter be implemented in accordance with the approved details and be completed prior to the occupation of development'

is placed in its entirety on any subsequent planning approval.

The **Education Authority** in their original response advised that the development falls within the catchments of Baldwin's Gate CE (VC) Primary School and Madeley High School. The development could add 24 Primary School aged pupils, 17 High School aged pupils and 3 Sixth Form aged pupils. Baldwin's Gate Primary School and Madeley High School are projected to be full for the foreseeable future. An education contribution for 24 primary school places (24 x £11,031 = £264,744) and 17 secondary school places (17 x £16,622 = £282,574) was sought. This made a total request of £547,318. This contribution was based on the 2008/09 cost multipliers which are subject to change.

Further advice has been received following discussions between the Education Authority and the applicant and this is detailed in the key issues section of the report.

Network Rail originally objected to the application due to concerns regarding drainage and the management of surface/ground water by the developer. Following the receipt of further information from the applicant, and on the basis that the application is outline, they withdrew their objection subject to a condition being imposed regarding surface water flows and drainage outfalls.

The **Waste Management Service** has no comments to make at this time however if the scheme is developed the road layout should be designed for minimal reversing manoeuvres for refuse collection vehicles and adequate arrangement should be made within the design of properties for effective storage and collection of bins and boxes for waste and recycling services.

Staffordshire County Council as the **Rights of Way Authority** has advised that there is a public footpath which runs along the north eastern boundary of the site which will need to be safeguarded within the development. If planning permission is granted, the applicant should be informed that the permission does not construe the right to divert or stop up the right of way.

The **Police Architectural Liaison Officer** states that it is pleasing to note that the applicant has clearly satisfied the requirements to demonstrate how crime prevention measures have been considered in the design of the proposal. Accepting that the masterplan layout is only indicative and seeks to demonstrate the incorporation of design principles, a number of design elements are listed that have crime prevention relevance. It is noted that the affordable housing elements are to be designed to meet the requirements of 'Secured by Design'. It is recommended that serious consideration is given to securing 'Secured by Design' accreditation for the whole development. Pre-application consultation is welcomed and should be undertaken before design proposals are so far advanced that making layout alterations would be difficult to accommodate.

The **Environment Agency** has no objections to the proposed development. It is stated that the site is located within Flood Zone 1 which is an area of 'low risk' of flooding therefore any concerns in relation to flood risk are therefore solely in respect of surface water. The submitted FRA has considered this issue and has indicated that mitigation measures will be included within the proposed development to protect property from surface water flooding. It is noted that infiltration drainage is possible as a means of surface water disposal. Conditions are recommended requiring the development to be carried out in accordance with the approved FRA and the mitigation measures regarding surface

water run-off and finished floor levels, and requiring the submission and approval of a surface water drainage scheme for the site. Regarding contamination, no further investigation of the site is required.

In subsequent comments received further to the submission of details of the construction access they state that it has been brought to their attention that the field that the proposed road is to cross may have been used as a foot and mouth burial site in the 1960s. They confirm that they hold no record of any such activity taking place yet they recommend consultation is sought with DEFRA and the Local Authority's Environmental Health Department who may hold information. They refer to paragraph 120 of the NPPF which states that where a site is affected by contamination or land stability issues, responsibility rests with the developer and/or landowner.

If a burial site is found to be present within the footprint of the proposed access road it may be preferable for it to be diverted. They confirm that all other comments made and conditions recommended in previous correspondence remain valid.

United Utilities has no objections to the proposal subject to conditions requiring an access strip for the public sewer that crosses the site, the site should be drained on a separate system with only foul drainage connected into the foul sewer and no surface water to be discharged to the combined sewer network. In a further communication, it is stated that the last flooding incident reported to them was in December 2009 and that this was due to an operational problem that was rectified in January 2010. They note that the sewerage network is the responsibility of United Utilities until it crosses Newcastle Road and from that point downstream, the sewers are the responsibility of Severn Trent Water. They state that whilst they fully understand the concerns raised (by third parties), if the development is drained in accordance with the proposals in the planning application, then the development will have no impact on the existing surface water sewer network and little impact on the foul sewer network.

Severn Trent Water has no objections to the proposal subject to a condition requiring the submission and approval of drainage plans for the disposal of surface water and foul sewage. In further correspondence they note that the development will actually connect into sewers under the ownership of United Utilities. They confirm that they have been consulted both by the developer and by local residents regarding the ability of the current drainage system to cope, particularly with regard to the local pumping station and the sewage treatment works. They point out that they are under a legal obligation to provide additional capacity when it is required and so they would not use capacity issues as grounds to object to a development, but rather they would suggest a negatively worded or Grampian style condition which they would be happy to discuss the details of.

The **Environmental Health Division** has no objections to the proposal subject to conditions regarding hours of construction, submission of a construction management plan, internal and external noise levels and contaminated land. The Division advise that there are no objections to the proposed access road however due to the potential impact upon the amenity of the surrounding area the same above conditions (except for those relating to the internal and external noise levels of the proposed dwellings) should be applied to the construction access road element. With reference to the alleged use of the land, across which the proposed access road passes, as a foot and mouth burial site the Department holds no record and recommends that the Animal Health Department and DEFRA are consulted. They indicate that the responsibility for ensuring that development is carried out safely lies with the developer and/or the landowner. These parties should satisfy themselves that no risk of harm exists in relation to the potential disturbance of any potential historical carcass burial site

The comments of Staffordshire County Council's **Animal Health Team** on the construction access details are awaited at the time of the preparation of this report but it is known that the Team have sought information from DEFRA Animal Health and Veterinary Laboratories Agency and are awaiting that information.

Natural England has no objection to the proposal. The application is in close proximity to Maer Pool Site of Special Scientific Interest (SSSI) and Natural England is satisfied that the proposed development will not damage or destroy the interest features for which that site has been notified. It is advised therefore that this SSSI does not represent a constraint in determining this application. On the basis of the information submitted, the proposed development would be unlikely to affect bats or great crested newts. Conditions are recommended to ensure the development is undertaken in accordance with the Ecological Appraisal and Ecological Mitigation Strategy. If the Authority becomes

aware of the presence of protected species on site it should request survey information before determining the application. Natural England Standing Advice for Protected Species is available to help Local Planning Authorities (LPAs) better understand the impact of development on protected or priority species. The LPA is expected to assess and consider the other possible impacts on local sites (biodiversity and geodiversity), local landscape character and local or national biodiversity priority habitats and species. The application may provide opportunities to incorporate features into the design which are beneficial to wildlife. The Authority should consider securing measures to enhance the biodiversity of the site from the applicant if it is minded to grant permission.

The **Housing Strategy Officer** states that there should be 25% affordable housing with 15% social rented and 10% shared ownership. It should be provided on-site and the units should be pepper-potted across the development. The types of property designated as affordable should be proportionally reflective of the development.

Staffordshire County Council Archaeologist states that there are no designated or undesignated heritage assets within the area of the proposed scheme and several areas of prehistoric activity are present in the vicinity. Bearing in mind the scale of the scheme it is advised that a staged archaeological evaluation be carried out in advance of groundworks. This will comprise geophysical survey to be followed by targeted trial trenching, the results of which will inform the need for and scope of any further mitigation. The archaeological evaluation and mitigation would be most appropriately secured via a condition.

Staffordshire County Council as **Minerals Planning Authority** confirms that the site falls within a Mineral Consultation Area for sand and gravel however it is on the very edge of a potential resource area for bedrock deposits. This, combined with the proximity of neighbouring settlements, makes it unlikely that the site would be put forward for mineral extraction in the foreseeable future. The proposed development is, therefore, not considered likely to lead to the sterilisation of a significant mineral resource. However, there is a policy requirement to make better use of waste associated with non-waste related development. The applicant should be made aware of the Site Waste Management Plan Regulations 2008 which makes such plans compulsory for all construction projects in England costing over £300,000.

Whitmore Parish Quality Council wishes to formally register the strongest possible objection to this application. A number of developments have been welcomed to the village, all of which lie within the village envelope, fit well into the village and enhance its character and attraction. The massive development now proposed would be totally out of place for all the reasons detailed below and would ruin the character of the village.

Not needed by Whitmore Parish

The Whitmore Parish Housing Needs Survey results (2009) identified a very limited local housing need and the Whitmore Parish Plan 2005 concluded that there was no support for new major housing developments within the Parish. There are no significant sources of jobs in Whitmore Parish to support such numbers of new dwellings.

Not wanted by Baldwin's Gate village

Some 200 people attended a public meeting in July and the vote was one of unanimous rejection.

Totally inappropriate

The site is Greenfield, lies outside of the village envelope and comprises Grade 1 and 2 agricultural land (excellent/very good quality). The density of the existing village varies between 8 and 17 dwellings per hectare but this development proposes 26 dwellings per hectare. This is totally excessive and totally out of place in this pretty rural village. It would seriously detract from its character. The proposed number of dwellings would increase the number in the village by a massive one third. This would completely change the nature of Baldwin's Gate and would be totally inappropriate. The proposal is contrary to the National Planning Policy Framework (NPPF), the Local Plan, the Local Development Framework, the Core Spatial Strategy, the Development plan and the SHLAA and so is totally inappropriate.

Completely unsustainable

Facilities in Baldwin's Gate are extremely limited. The Primary School is full, there is no secondary school, the doctor's surgery is only part-time, and there is no pharmacy, dentist or general store/supermarket. The proposed development is described as mainly 'executive homes' suited to active families therefore most occupants would need some or all of these facilities and so will need to travel regularly into local towns. Whilst there is a regular bus service along the A53 the service is limited, often unreliable and during rush hours periods, the buses are often full. There is no bus service between Baldwin's Gate and Madeley. Undeniably the proposed development would generate a significant extra level of travel by car and as such is unsustainable.

The road access to the site is totally unsuitable and if permitted, this single access road would service 146 dwellings. The fact that the applicant has explored the use of Sandyfields as an additional access shows that he is fully aware that the proposed access is insufficient. The proposed access for emergency vehicles, Hillview Crescent, does not access the main A53 directly and is not a viable emergency access route. The junction of Gateway Avenue with the A53 is already a dangerous junction and visibility from Gateway Avenue in either direction is limited. Residents wanting to turn right onto the A53 commonly in rush hour periods have to first turn left, then turn right into a side road, turn round and rejoin the A53 by turning left. Traffic movement into and out of this junction would become very difficult if permission were granted. If this development were permitted a turning right lane would surely need to be created at the entrance to Gateway Avenue. Given the increase in traffic movements on the A53 that would be created and the nature of the road junction, it is considered that the proposed development is totally unsustainable.

Opportunistic

The applicant is relying on the argument that because the LPA cannot demonstrate a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered to be up to date and so housing applications should be considered in the context of a presumption in favour of sustainable development. As already stated, this development cannot by any stretch of the imagination be considered to be other than totally unsustainable such that this approach must fail.

Other considerations

- The proposed site suffers from severe water drainage issues and the evaluations presented were carried out in the summer.
- Previous planning applications to develop this site have been refused on the basis that they would destroy high grade agricultural land, be an undesirable extension to the village and on the basis of the landscape value of the site.
- The capacity of the foul water system is a concern.
- The applicant proposes to reduce the number of affordable homes on the site from 28 to 18 demonstrating a lack of consideration for local needs.
- The Highway Authority has advised that Gateway Avenue is not suitable for construction vehicle access which is estimated to last for up to 3 years. A suitable temporary access must be agreed before planning permission can be considered.
- There are plans under consideration to build 500 dwellings in Loggerheads which will add very considerably to the traffic flow and congestion through Baldwin's Gate. The proposed development would add a lot more.
- The development would significantly harm the visual appearance of the rural landscape being clearly visible from nearby settlements.
- The site is identified in the Local Plan as an Area of Landscape Improvement but far from improving it, the proposal would destroy it.
- The applicant is not a developer and would not develop the site but would bank it for onwards sale to a developer. It is wondered how long it would be before development would actually take place and what exactly it would comprise.

In conclusion, Whitmore Parish Quality Council calls upon and is counting upon the Borough Council to defend the residents of Baldwin's Gate village and indeed its own Planning Strategy, by refusing this application, which it considers to be totally out of order. Finally, it is feared that if this development

is permitted, a precedent will have been created which will open the flood gates to unstoppable planning applications for housing until such time as the Borough Council is able to demonstrate a 5 year supply of deliverable housing sites.

The comments of **Whitmore Parish Council** on the construction access details are awaited at the time of the preparation of this report.

Chapel and Hill Chorlton Parish Council objects to the proposal on the grounds that the A53 is one of the most dangerous roads in the area, the width of Gateway Avenue restricts access for commercial, delivery and service vehicles and the extra traffic generated would cause chaos and delays.

Maer & Aston Parish Council makes the following comments:

- The site is outside the village envelope and is not one of the rural service centres.
- Whitmore Parish Council has a Parish Plan and a Village Design Statement and the views expressed in these documents should be respected.
- The Borough Council's own housing needs survey states that there is no housing need.
- Impact on local facilities and services.
- The A53 is extremely busy through Baldwin's Gate and with this proposal the situation will only get worse.
- Adverse impact on road safety.
- The bus service is at capacity at peak times and is not frequent enough to allow residents to depend on public transport. It is therefore not sustainable.
- The school is already at capacity and medical facilities are under pressure.
- The site is grade 1 agricultural land and the rural landscape will be destroyed.
- Concerns regarding flooding.
- Disruption, noise and pollution from access during the construction phase.

No comments have been received from **Staffordshire Wildlife Trust**. Given that no observations were received by the due date, it must be assumed that they have no observations to make regarding this application.

Representations

Approximately 676 letters of objection have been received at the time of the preparation of this report. The period for public comment upon the submitted construction traffic route expires on the 12th February. A summary of the objections raised, insofar as they relate to the scheme now before the Authority, is as follows:-

- The proposal does not comply with the Development Plan, the Whitmore Village Design Statement & Whitmore Parish Plan, and the Borough's strategy for rural development. Baldwin's Gate is not defined as a key rural service centre and so should not be the location for a development of this size. The site lies outside the village envelope.
- The proposal is not sustainable and the local infrastructure is incapable of meeting the needs of a further significant development that increases the number of dwellings by a third and could potentially increase the population by 50%.
- The proposed access is already dangerous and would be inadequate to serve nearly 150 dwellings generating up to 200 additional vehicle movements at peak times.
- Gateway Avenue is a narrow cul-de-sac and its width restricts access for commercial, delivery and service vehicles and it would be unsafe for emergency vehicles.
- Due to the limited capacity of the road system through the village, vehicles leaving and entering the road would be unable to do so safely and without delay and it would cause significant disruption to traffic flow on the A53.
- The proposals are for a loop/traffic sensor in Gateway Avenue but the 'keep clear' marking will be just an advisory marking which has no legal obligation and its effectiveness will be negligible.
- Many motorists ignore 'keep clear' road markings and if this occurs it will be totally impossible for any driver to enter the A53 from Gateway Avenue, irrespective of their direction of travel.

- The accident history of the A53 over the last 10 years shows 14 fatalities and 360 injuries and the additional traffic would undoubtedly increase the likelihood of serious injuries/fatalities occurring.
- The recommendation of the Highway Authority was amended quickly and it appears it was without careful consideration of all the facts.
- Staffordshire Highway Authority employs a specialist person who gives an expert opinion on roundabouts and road junctions and this expert was not consulted by the Highway Engineer which is unethical.
- A defined route for construction traffic must be agreed prior to the granting of permission as making such a condition would leave the option for the developers to request an amendment at a later date.
- Information including modelling data, traffic flow rates and details of the stage 1 safety audit has not been made available for public scrutiny.
- The location of the puffin crossing is not a safe place to cross the road as there is poor visibility to the east and the pavement is narrow. Pedestrians waiting at the crossing will obscure the view for drivers travelling east or emerging from Gateway Avenue.
- The plan submitted by the applicant is inaccurate. The dimensions of the zig-zag lines require a distance of 19m either side of the crossing which is significantly more than is shown on the applicant's plan.
- Residents whose entrances are within the area of the zig-zag lines are committing a traffic offence if they stop within the area of the lines in order to reverse into their drives.
- The site has intrinsic value as Grade 1 and 2 high quality agricultural land. Development would cause irreversible damage contrary to the sustainability criteria of the Council and the Government.
- The site is an Area of Landscape Improvement and this proposal would destroy the landscape.
- The development would significantly impinge on the visual impact and quality of the rural landscape. It would be clearly visible from the surrounding areas and from properties within the village envelope.
- The site is used for feeding for bats and a variety of birds and is home to small mammals and grass snakes. This natural habitat would be destroyed.
- The local primary school has no capacity for additional pupils and there is no secondary school and no nursery facilities.
- The medical services in the village comprise a small branch surgery with limited capacity which would be inadequate for the increased population. There are no dentists or pharmacies.
- The shopping facilities are limited and additional residents would, by necessity, have to travel significant distances by car to supermarkets and other services, thereby increasing their carbon footprint.
- The existing sewage system is already overloaded which can lead to localised flooding. Special apparatus has been brought onto site to alleviate the flooding problem. Photographs have been submitted showing the application site following significant rainfall.
- Effluent is regularly transported by road tanker to sewage works for further treatment. There are no approved plans to extend the sewage plant and the existing system is unsustainable.
- The infrequent bus service is full to capacity at peak times and the additional properties being developed at Loggerheads can only make this worse. There is no public transport in the evenings or on Sundays.
- There are no employment opportunities in the village.
- There is no need for this type of property according to the Housing Needs Survey. The developers are attempting to create a housing market (for financial gain) rather than fulfilling the needs of the villagers. Planning policy requires that housing in the rural villages should only be to meet the need. There is already 10% of property of all types for sale in the village and houses are on the market for a considerable time. There is no market need.
- The site has been the subject of planning applications on three previous occasions when they were dismissed on the grounds that development would destroy high grade agricultural land, undesirable expansion of the village and a Government Inspector ruled that it is of 'great landscape value which should be retained'.
- During the winter months the site is subject to periodic flooding adjacent to some of the existing properties and building on the land would only exacerbate the problem.

- The proposal is for a high density estate, roughly twice the density of the adjacent properties and not in keeping with the village character and design.
- If approved, the construction phase would cause significant adverse environmental impact for up to three years. The noise, air pollution, disruption and lack of alternative route for construction traffic, would cause severe nuisance to local residents, many of whom are elderly and in poor health.
- The location of the proposed construction access close to the junctions with Madeley Road and Lakeside Close and close to two bends is unsafe and visibility is very poor in both directions. Although it is a 30mph zone, many vehicles travel in excess of 30mph. There will be a serious risk of accidents during the construction period.
- The hard surface of the construction access will exacerbate flooding, particularly at properties on Sandyfields.
- Conditions should be imposed regarding the life of the construction access and its reinstatement to agricultural land.
- Concerns have been raised regarding a large mound which is reportedly where the farm burned and buried large numbers of cattle during a foot and mouth outbreak. This may cause an environmental hazard by disturbing the ground for the construction access.

Bill Cash M.P. objects to the proposal for the following reasons:-

- Contrary to the National Planning Policy Framework, the Newcastle Borough Council Local Plan, Newcastle Local Development Framework, Whitmore Village Design Statement and Whitmore Parish Plan. Baldwin's Gate is not a key rural service centre and so should not be a location for a development of this size.
- The development is not sustainable and the local infrastructure could not meet the needs of the development.
- The proposed access is already dangerous and its width restricts access for commercial, delivery and service vehicles. The development would have an adverse impact on highway safety and would cause delays and disruption. The A53 has a history of accidents.
- The development would cause irreversible damage to Grade 1 and 2 high quality agricultural land.
- This high density estate development would destroy the landscape which is identified as an area of 'Landscape Improvement'.
- The development would significantly affect the visual impact and erode the quality of the landscape.
- The natural habitat of bats, birds, small mammals and grass snakes would be destroyed,
- Consideration needs to be given to how secondary school pupils will be transported to Madeley or Newcastle.
- Medical services and shopping facilities in the village are limited and so residents would have to travel by car to supermarkets and other services increasing their carbon footprint.
- The existing sewage system is already overloaded and effluent is regularly transported to sewage works for further treatment. There are no approved plans to extend the sewage plant.
- The site is subject to periodic flooding and building on the land would only exacerbate the problem.
- The bus service is full to capacity at peak times and there is no public transport in the evenings or on Sundays.
- There are no employment opportunities in the village.
- There is no identifiable need for this type of property.
- This high density estate is not in keeping with the village character and design.
- This field has been the subject of planning applications on three occasions when they were dismissed on the grounds that development would destroy high grade agricultural land, undesirable expansion of the village and 'of great landscape value which should be retained' and that 'development would lead to a major expansion of Baldwin's Gate'.
- The construction phase would cause significant adverse environmental impact for up to three years.

Councillor Loades as Ward Councillor and County Councillor has expressed concerns regarding impact on local schools. This representation will be referred to in detail in the relevant key issues section of the report.

Baldwin's Gate Action Group objects on the following grounds:

- The applicant has failed to include previous planning history for the site.
- The applicant's assertion that Gateway Avenue was designed to facilitate future access is incorrect.
- There are existing problems of sewage flooding into gardens, malfunctioning of the pumping station in Meadow Way, and a lack of capacity at the current sewage works resulting in the need for effluent to be tankered from the site for further treatment. Retaining the existing system would appear to be unsustainable.
- In winter months, the site is subject to periodic flooding adjacent to some of the existing properties in Gateway Avenue.
- The application fails to provide any information as to the effects of light pollution and due to the valley location this site will dominate the evening and night-time views from all elevated surrounding areas and not least from the existing residential estates adjoining the site. This excessively dense development will significantly change the night-time visual appearance of the locality, adversely affecting the village character.
- The 1.8m high boundary fence required by Network Rail along the boundary adjoining the West Coast mainline will significantly affect the landscape views both into and out of the development. The fence will also prevent residents from directly accessing the adjoining public footpath which will then be routed in a corridor between the two fences.
- The number of dwellings is not in keeping with the village design and character and the density is twice that of the adjacent properties and significantly higher than any other developments in the village envelope. This does not conform to the Village Design Statement or Parish Plan.
- The access is both unsatisfactory and unsafe in case of emergency. Hillview Crescent is not a satisfactory as an emergency vehicular access.
- The applicant fails to adequately address the issue of a route for contractor's traffic. To suggest that the matter could possibly be dealt with at a later date is totally unsatisfactory and it should be decided as part of this application to ensure that the route does not cause nuisance or disturbance to the residents of Sandyfields estate. Gateway Avenue is unsuitable for construction traffic.
- Whitmore Parish Plan adopted in 2005 was approved and accepted without alteration and this document has been used in deciding planning applications. The Plan makes clear statements that there was support for minor expansions but no support for major housing development.
- The Whitmore Village Design Statement adopted in 2002 states that an increasing threat to the distinctive character of rural settlements is uniformity and standardisation in design of new developments and the use of non-local and inappropriate construction materials. It is clear that the proposal does not complement the style of housing in the locality either in density or proportion.
- The content of policies in the Local Plan and the Core Spatial Strategy.
- The NPPF raises a number of significant issues in respect of the development process and the proposed development fails to meet the aims of the national policy and ignores the views of local residents.
- The main issue is whether this development would be sustainable and it is considered that this development would be unsustainable.
- The NPPF identifies three dimensions to sustainability, namely economic, social and environmental.
- In terms of **economic** factors, new jobs are not guaranteed for local people, and it is disputed whether this estate would provide the high-quality housing that the applicants claim.
- In terms of **social** factors it is not true that there is a market and affordable housing need. There are already 10% of properties for sale in the village with a wide price range and many are on the market for over 12 months before being sold.
- In relation to **environmental** factors, the assertion by the applicant that a high density style of housing development can regenerate an already beautiful and impressive landscape is illogical. The application would cause demonstrable harm to an area of great landscape value by the destruction of the very landscape that previous planning decisions have sought to protect.

- The best grades of agricultural land should not be built upon. This field consists of grade 1 and 2 agricultural land and although currently used as pasture land and to grow fodder for a dairy herd, this does not mean that it could not be used in the future for other crops. In view of the limited land of this grade within the Borough, the permanent destruction of this finite natural resource is in itself enough to class the development as unsustainable.
- Baldwin's Gate is on a single bus route with only an hourly service. The only local services are a butcher and a newsagent/post office, a petrol filling station, a pub and a junior school that is full. The doctor's surgery is a branch surgery of the Madeley practice and is only open for 3 hours each morning. There is no public transport between Baldwin's Gate and Madeley. It is not sustainable to build where everyone has to travel by car and the carbon footprint will be increased.
- The lack of local infrastructure and problems arising from the poor local road network clearly illustrate that there will be an adverse effect on local residents and people travelling on the A53. This will have a significant negative impact on people's lives and the detrimental effects on the quality of life make this an unsustainable development.
- The proposed layout is unsuitable, unsafe, inadequate, unsustainable and does not comply with Staffordshire County Council Highway's Design Guide.
- In conclusion, there are a considerable number of statements in the application that are not backed up with accurate factual or statistical evidence. A large proportion are incorrect and this results in a lack of confidence that the application has been compiled in a competent and professional manner and questions the validity of conclusions. The application does not meet the criteria of sustainability required to justify a 'presumption in favour of approval' set out in the NPPF. It is not sustainable and should be refused on those grounds.

An additional submission by **Baldwin's Gate Action Group** includes a letter accompanied by two reports, three videos and photographs to illustrate traffic problems on the A53 and its junction with Gateway Avenue.

A further letter has been received from **Baldwin's Gate Action Group** regarding the consultation response from Staffordshire County Council Highways Department. The comments made in addition to those made by residents and summarised above, are, insofar as they relate to the scheme now before the Authority, as follows:-

- Any street lighting should be assessed to ensure that no nuisance is caused.
- The location of the new pedestrian crossing is such that the zigzag markings extend across the driveways of several existing properties creating a road safety hazard.
- The proposals require a Traffic Management Plan to be agreed for construction vehicles but no mention is made of traffic safety issues that would be caused by the use of this route.
- The suggestion that the width of Gateway Avenue is sufficient to accommodate a passing car and service vehicle is incorrect.
- The consultation makes the inaccurate assumption that vehicles will never be parked on Gateway Avenue due to provision of driveways. Any vehicles parked legally on Gateway Avenue restrict the road width to passage for only a single vehicle.
- The comments of the consultation fail to address the issue of a single access onto the busy A53. Since the application has been submitted there have been three serious accidents within the village.
- The proposed use of Hillview Crescent as an emergency access/exit offers no reassurance that this could or would be used as there is no information or management plans as to how this will operate.
- The 'approved' Travel Plan raises a number of serious concerns and fails to address in a meaningful way the key issue of sustainability.
- In conclusion, the proposed use of the single access to the housing estate is completely unsustainable.

A further letter from **Baldwin's Gate Action Group** makes comments regarding the Landscape and Visual Impact Assessment that accompanies the application. A summary of their comments is as follows:

- The photographic montage contains images which have been taken in a panoramic format with a low camera angle which distorts the images.
- The Group have provided their own photographic montage.
- The assessment makes a number of references to Baldwin's Gate as being an urban location but this is inaccurate, it is a rural location.
- The consultants make reference to the impact of the development on the landscape as being 'negligible/neutral and of low sensitivity'. This is patently untrue and is based purely on opinion.
- The assessment confirms that the views across the site (viewed from Gateway Avenue) will be substantially changed and the effect would be major and adverse. However, it then tries to suggest that this issue is not a material planning consideration and should be discounted. This shows an unprofessional bias in support of the application despite significant adverse effects to the locality.
- The eastern boundary of the site adjoining the railway will require an acoustic fence and palisade security fence to run parallel to the existing boundary fence of the railway with the public footpath between these structures. A further assessment of this is essential as these requirements will have a significant landscape impact.
- It should be noted that as part of a planning appeal in 1965, the Planning Inspector stated that the location was of great landscape value. This situation has not altered.
- Additionally the current proposals conflict with the National Planning Policy Framework in that the urban mass and density of the development will permanently scar the rural valley landscape.

In a further letter from **Baldwin's Gate Action Group**, the use of the 'Sedgefield approach' in calculating its 5-year housing land supply is challenged.

Two letters of support have been received stating that the village needs more houses and that this development is well thought out and would create extra work, money and jobs for the village.

Applicant/agent's submission

The application is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Phase 1 Ground Conditions Survey
- Transport Assessment
- Travel Plan
- Ecological Appraisal
- Ecological Mitigation Strategy
- Affordable Housing Delivery Plan
- Tree Survey
- Landscape and Visual Impact Assessment
- Flood Risk Assessment
- Drainage and Utilities Assessment
- Noise and Vibration Impact Assessment
- Statement of Community Involvement
- Agricultural Land Quality Assessment
- Desk-based Archaeological Assessment
- Socio-Economic Impact Assessment
- Construction Access Plan
- Hedgerow Assessment
- Parking Survey and Site Access

All of these documents are available for inspection at the Guildhall and on www.newcastle-staffs.gov.uk/planning/GatewayAve

KEY ISSUES

1.1 Outline planning permission is sought for residential development of up to 113 dwellings. Access from the highway network but not the internal access within the development itself, is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval. Notwithstanding this, an illustrative Masterplan has been submitted together with a Design and Access Statement. The applicant is not seeking approval for the siting of the buildings as shown on the illustrative plans, rather such matters would be agreed at the reserved matters stage if outline permission were granted. The proposals include an access for construction traffic.

1.2 Applicants for outline planning permission are required to include information on the amount of development proposed for each use referred to in the application. In the absence of any condition to the contrary any reserved matter would need to comply with and can refer to and draw support from the Design and Access Statement submitted with an application. Where an applicant indicates that the proposal is for up to a certain number of dwellings, in the event of outline planning permission being granted, unless a 'floor' or minimum number of units is imposed by a condition a reserved matters application seeking approval for any number of units up to the specified upper number would be in accordance with the outline planning permission. However if the Authority were to conclude that only a lesser number of dwellings would be appropriate, the appropriate course of action would be to refuse the application detailing the basis for this conclusion.

1.3 The main application site, of approximately 5.6 hectares in extent, is within an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map, in the open countryside outside the village envelope of Baldwin's Gate. The construction traffic access is subject to the same policy designations.

1.4 In dealing with applications for planning permission the LPA has to have regard to the provisions of the development plan (so far as material to the application), local finance considerations (so far as material to the application) and any other material considerations (Section 70). Where regard is to be had to the provisions of the development plan, the determination should be made in accordance with the provisions of the development plan unless material considerations indicate otherwise (Section 54a). The National Planning Policy Framework (NPPF) is a material consideration in the determination of applications. Paragraph 215 of the NPPF states that following a 12 month period from the publication of the NPPF (i.e. post 29th March 2013) due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given to them).

1.5 Reference has been made in representations to the Whitmore Parish Plan and the Whitmore Village Design Statement. The former – the Parish Plan – a document that was produced by the Parish Council with no input from the Borough Council – is a document that summarises the views and wishes of the people of the Parish at the time (in April 2005) Although it may well have been the subject of considerable local consultation, it has not been subject to the rigorous procedures of wider consultation, justification and challenge which a Supplementary Planning Document has to go through, has not been adopted by the Borough Council, and accordingly has no formal status in the planning system so it must be considered to be of very limited weight. As referred to above, a further factor that has a bearing on what weight could be given to it is the question of how much it complies with the NPPF. It appears to your Officer that it far from accords with the NPPF – for example in its approach to housing development, and its lack of an evidence based approach. It is useful as a statement of local opinion but no more.

1.6 Although Baldwin's Gate Action Group contends that Whitmore Parish Plan has been used in deciding planning applications, this is not correct.

1.7 The Whitmore Village Design Statement was prepared jointly by the Borough Council and the Parish Council in 2002, and adopted as Supplementary Planning Guidance at that time. As such it could have some weight, but again the fact that it dates from over 11 years ago and is based upon policies in the previous version of the Newcastle Local Plan all suggest that it cannot be given more than limited weight. In any case as the title indicates it is about design – the application here is for outline planning permission with all matters except for access reserved for subsequent consideration – including the external appearance of the dwellings.

1.8 Taking into account the development plan, the other material considerations indicated above and the consultation responses received, it is considered that the main issues for consideration in the determination of this application are:-

- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?
- Is the loss of agricultural land acceptable?
- Would the proposed development have any adverse impact upon highway safety and does it provide appropriate pedestrian access to village facilities?
- What impact would the development have upon the local schools in terms of additional pupil numbers and how could this matter be addressed?
- Is affordable housing required and if so how should it be delivered?
- Would the development have any adverse impact upon residential amenity or public health?
- Would there be any significant impact upon any protected species?
- Would there be any issue of flood risk or impact on sewage capacity?
- Will appropriate open space provision be made?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

2. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

2.1 The site lies within the Rural Area of the Borough, outside of the village envelope of Baldwin's Gate, in the open countryside.

2.2 Saved Policy NLP H1 indicates that planning permission will only be given in certain circumstances – one of which is that the site is in one of the village envelopes – it is not within one of the envelopes, and none of the other circumstances apply in this case.

2.3 CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. Baldwin's Gate is not one of the targeted areas. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

2.4 CSS Policy ASP6 on the Rural Area states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

2.5 Baldwin's Gate is not identified in the CSS as one of the Rural Service Centres. It is identified as a village and the CSS indicates that no further growth is planned for the villages and efforts will be made to ensure existing services and activities within the villages are protected. The site is not previously developed land.

2.6 In terms of open market housing, the development plan indicates that unless there are overriding reasons, residential development in villages other than the Rural Service Centres is to be resisted according to CSS Policy ASP6. The adopted strategy is to allow only enough growth to support the provision of essential services in the Rural Service Centres.

2.7 In conclusion, this site is not one of the identified Rural Service Centres nor is it within a village envelope, and the proposed dwellings would not serve an identified local need.

2.8 The Local Planning Authority (the LPA), by reason of the NPPF, is however required to identify a supply of specific deliverable sites sufficient to provide 5 years worth of housing against its policy requirements (in the Borough's case as set out within the CSS) with an additional buffer of 5% to

ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Borough is currently unable to demonstrate a five year supply of deliverable housing sites. The current shortfall in the number of deliverable housing sites (including a 20% buffer) is 949 dwellings and the latest housing land supply figure is 3.27 years. This position has been reported to and noted by the Planning Committee (4th June 2013).

2.9 A representation has been received from a planning consultant acting on behalf of Baldwin's Gate Action Group challenging the Council's method of calculating its 5-year housing land supply. Local Planning Authorities are obliged to take into consideration relevant planning decisions and other considerations including the latest national planning policy and Officers have undertaken extensive research to determine which method should be used to calculate the housing land shortfall. The decision to use the 'Sedgefield' approach has also been supported by the draft National Planning Practice guidance which states:

"Local planning authorities should aim to deal with any under-supply within the first five years of the plan period where possible. Where this cannot be met in the first five years, local planning authorities will need to work with neighbouring authorities under the 'duty to cooperate' "

2.10 It is argued in the representation that supply would rise to 3.99 years if the shortfall is not 'administratively carried forward'. The Borough Council has obtained a copy of Counsel Opinion received by the City Council which has confirmed that the Borough Council does not have the option through the *current* Development Plan of a neighbouring authority meeting some of its housing target.

2.11 On the matter of windfall allowance also referred to in the representation, to reflect the fact that unknown windfall sites are less likely to be delivered in the first 3 years of the housing supply, and to avoid any double counting, it has only been added to the final 2 years. This takes into account the time taken for developments to gain planning permission and to be constructed. Although some windfalls may be consented and delivered within the three-year period, these are not included to ensure that the figures are robust and not open to challenge. It should be noted that most windfall sites are 'previously developed' sites often with existing uses which can take longer to develop than other sites which are not included in the windfall allowance.

2.12 In relation to comments made regarding the Core Spatial Strategy (CSS), the maximum requirement of 900 dwellings in the Rural Area has not been reached. In any case as the Council are unable to demonstrate a 5 year housing land supply relevant parts of policies ASP5 and ASP6 which relate to the supply of housing cannot, having regard to paragraph 49 of the NPPF, be considered up-to-date. There is no basis in either the CSS or national policy for having a different requirement in the five year housing land supply for the rural and urban areas separately.

2.13 Regarding the comments about the SHLAA, no actual specific sites within the 6-10 year trajectory have been identified as being 'deliverable' in the 0-5 year period and the statement appears to be a very broad assumption about the improving economic conditions. The NPPF states that sites in the 0-5 year housing land supply should be 'deliverable' and clearly defines what is required from a site to be considered 'deliverable' and also 'developable'. All of the sites in the SHLAA have been assessed against the definition of 'deliverable'. Those sites included in the 6-10 year supply are considered 'developable' but not 'deliverable' when assessed against the definitions. While it may be the case that the economic climate will improve, such optimism is not a robust basis for the inclusion of sites within the 5 year housing land supply and does not form part of national planning policy or guidance.

2.14 The draft National Planning Practice Guidance states that:-

"Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years or where planning permission has expired. However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant

constraints (e.g. infrastructure) to overcome, sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe. The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust five-year housing supply.”

2.15 The principle of residential development on the site must be assessed against paragraph 49 of the NPPF which states that “*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*”

2.16 As a consequence despite the clear conflict that there is in this case with development plan policies, policies such as NLP H1 with its reference to the village envelope and CSS ASP6 with its reference to Rural Service Centres all have to be considered to be out of date, at least until there is once again a five year housing supply.

2.17 Members are reminded that no objection to the **principle** of residential development was raised in the case of the Sheet Anchor development (a brownfield site within the village envelope) even though Baldwin’s Gate is not a Rural Service Centre.

2.18 Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development, and for decision taking (i.e. the determination of planning applications and appeals) this means, unless material considerations indicate otherwise:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

2.19 The examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

2.20 In sustainability terms, although the site is outside the village envelope of Baldwin’s Gate, which in any event is not one of the Rural Service Centres identified in the Core Spatial Strategy, your Officer considers that the village represents a relatively sustainable location. It has a primary school, village hall, public house, doctor’s surgery, and two shops within walking distance of the site and an hourly bus service linking the towns of Newcastle, Hanley, Market Drayton and Shrewsbury. It is considered therefore that the village is well served by local services and that public transport provision is reasonable. It is the case that the occupiers of the proposed dwellings will be able to access certain services and facilities within walking distance and will also have a choice of modes of transport. Top-up shopping for example, would be obtainable from within the village and accessible from the application site by foot or cycle. It is acknowledged that the bus service does not operate in the evenings or on Sundays but it is considered that the bus service would provide an alternative for those without access to a car for certain trips. There are bus stops within walking distance of the application site.

2.21 These points undoubtedly weigh in favour of a conclusion that in terms of access to some facilities and a choice of mode of transport, the site can be described as being in a sustainable location. Baldwin’s Gate has over the years been the subject of several planning appeals where the Local Planning Authority’s position as to whether or not it is a sustainable location for residential development has been considered. Two different Inspectors have taken the view that Baldwin’s Gate has sufficient facilities to justify a description of a “sustainable location”. For example, in considering an appeal in 2008 regarding a site on Appleton Drive, Baldwin’s Gate, the Inspector concluded that the village would not be significantly different to many suburban areas and larger villages and would be more sustainable than many locations. Reference has been made in representations to decisions

by the Council to refuse residential development on Fairgreen Road, Baldwin's Gate, on the grounds of the minimum facilities and services in the village. Those decisions were made prior to the above appeal decisions however. Decisions made following the appeals, acknowledged the views of the Inspectors and accepted that Baldwin's Gate is a sustainable location.

2.22 The decision within the Local Plan to treat Baldwin's Gate as a village with a 'village envelope' is an implicit acceptance of the sustainability of the village – the policy being headed 'sustainable development and the protection of the countryside'. The supporting text to NLP Policy H1 states that as far as possible, new development should be concentrated in the existing built up areas, both to protect the countryside from encroachment and damage and to help to create a sustainable pattern of development. It states that these include the main urban areas of Newcastle and Kidsgrove and a number of selected villages defined clearly by 'village envelopes'. This position has been accepted by the Local Planning Authority in its decisions and again the Sheet Anchor decision is an example of that position.

2.23 Although this site is outside the village envelope, it would still be relatively close to existing facilities. The centre of the site would be between approximately 500m and 600m from the primary school and the village shop, approximately 450m from the nearest bus stops and a similar distance to the nearest existing play facilities which are located to the rear of the village hall. The national recommended distance for a suitable walking distance from a property to a bus stop is 400m and the catchment for a play facility is considered to extend 400m and greater distances have been assumed for certain play facilities within the Urban Green Space Strategy (and there is no reason to believe the same logic should not apply to the rural areas.. Although some of the proposed dwellings would be just outside the distances specified above, it is considered that generally, the distances to the existing facilities are within acceptable walking distances.

2.24 Baldwin's Gate is not designated in the CSS as a Rural Service Centre, i.e. those rural villages which provide the most comprehensive provision of essential local services. However, the Borough's Rural Services Survey (2008) which provided the evidence base for the designation, whilst concluding that those settlements that have been designated Rural Service Centres are the best served and therefore offer the most sustainable rural locations, recognised that Baldwin's Gate is reasonably well served.

2.25 Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles in relation to which the applicant comments as follows:-

Economic

- contribution to ensuring that sufficient deliverable housing land is available
- a socio-economic assessment identifies that the development would generate 97 full-time equivalent jobs within the construction industry per annum over a three year build period
- would also generate an additional expenditure of £1.4m per annum within the local economy, supporting local shops, services and businesses
- 8 no. public sector jobs would be supported
- by including high quality 'executive' four and five bed detached dwellings within the masterplan, there is considerable potential to enhance the labour market pool and the additional expenditure on retail, leisure and services generated by wealthier inhabitants will give the area a sustained expenditure injection
- would generate an additional capital receipt for the Borough Council of £1.1m via the New Homes Bonus in addition to any Section 106 contributions

Social

- meaningful contribution to meeting affordable housing need, thereby contributing to social inclusion and cohesion
- increasing the overall supply of housing improves affordability by redressing supply/demand issues and reducing prices overall thereby allowing more people access to the housing market and enhanced social mobility

- creation of a high quality residential environment, fully integrated within the existing settlement with additional community facilities
- the site is well located in relation to local services and has the potential to reduce reliance on the private motor vehicle
- the influx of new residents would also support existing shops and services within Baldwin's Gate

Environmental

- the site is not subject to any ecological designations or protected species, tree preservation orders, listed buildings or scheduled monuments. It is also outside an area at risk of flooding.
- Safeguards can be put in place in the form of planning conditions to ensure that the proposals do not give rise to pollution
- The site would be visually contained by built development, mature trees and hedgerows and therefore the development would not have an adverse impact on the wider countryside

2.26 The applicant has submitted a Socio-Economic Impact Assessment to accompany the application. In relation to the economic factors referred to by the applicant, your Officer agrees that the proposal would fulfil an economic role by contributing to the provision of housing to meet needs and support growth. In relation to the generation of jobs, some evidence has been submitted in this regard which does appear reasonable, and your Officer has no reason to suggest that the figures are incorrect. With respect to the provision of 'executive' housing, the applicant's Assessment refers to the Renew North Staffordshire Regeneration Partnership Executive Housing Market Report (2010). That Report states however, that the overall size of the executive housing market is limited in North Staffordshire and therefore it states that a target of just 10 – 20 new-build executive homes (in the £500,000+ price-band) per year across the whole of North Staffordshire would be ambitious but realistic. It states that in a few especially attractive locations there may be market pressure for such development but generally the economics for this type of development in North Staffordshire will not favour low density, high specification executive housing. Furthermore in this case it is considered unlikely whether the proposed dwellings would achieve a quality of place and residential offer that would constitute 'executive' housing.

2.27 In relation to the social dimension of sustainable development, your Officer does generally agree with the applicant's case, in particular that the development would fulfil a social role by delivering a mix of market housing and affordable housing.

2.28 The issue of the environmental impact of the scheme will be considered fully below.

2.29 As paragraph 14 of the NPPF states, the test that has to be applied is whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

3. Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?

3.1 CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. It states that new development should protect important and longer distance views of historic landmarks and rural vistas and contribute positively to an area's identity and heritage (both natural and built) in terms of scale, density, layout, use of appropriate vernacular materials for buildings and surfaces and access. This policy is considered to be consistent with the NPPF.

3.2 Concerns have been expressed regarding the scale and density of the development and its impact upon the character and design of the village.

3.3 The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) has been adopted by the Borough Council and it is considered that it is consistent with the NPPF and therefore,

can be given weight. Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality.

3.4 Although an indicative layout has been submitted to show how the site may be developed, layout, scale and appearance are all matters reserved for subsequent approval, and therefore, it is not considered necessary to comment in detail on or consider the layout submitted. Up to 113 dwellings are proposed comprising a variety of house types, which would be predominantly 2-storey with bungalows along the north-eastern and south-eastern boundaries.

3.5 There is a mix of dwelling size and style in the area but predominantly, the village comprises large, detached 2-storey dwellings and bungalows set within large spacious plots. Residential patterns vary within the village and densities vary between 8 and 17 dwellings per hectare. The density of the proposed scheme would be approximately 26 dwellings per hectare. All of these densities are per developable hectare and therefore take into account the whole site including its open space. The dwellings would be a maximum of 2 storeys (up to 10m to ridge) and bungalows are indicated along the north-eastern and south-eastern boundaries in response to the existing bungalows on Hillview Crescent. Lower density patterns of housing are proposed along the northern edges set behind a green corridor of Public Open Space. A small amenity/play space is proposed at the entrance to the site.

3.6 Paragraph 58 of the NPPF states that decisions should aim to ensure that developments optimise the potential of the site to accommodate development and respond to local character and reflect the identity of local surroundings.

3.7 Section 10.5 of the Urban Design SPD states that new development in the rural area should respond to the typical forms of buildings in the village or locality. It states that in doing so, designers should respond to the pattern of building forms that helps create the character of a settlement, for instance whether there is a consistency or variety.

3.8 It is considered that the number of dwellings indicated could be accommodated within the site satisfactorily and subject to details, would not have any significant adverse impact upon the character and appearance of the village. The indicative layout indicates that the density of development could vary through the site with lower densities around the edges adjacent to the countryside and to the existing housing and with higher densities more centrally within the site. Although the existing residential areas within the village are of lower densities, given the variety of dwelling size, density and style currently in the village, it is considered that the proposed scheme, as shown on the indicative layout drawing, both respects local character and optimises the potential of the site to accommodate development. In consideration of the scheme at the pre-application stage, MADE Design Review Panel considered that the overall mix and density of the proposal was appropriate. The proposed development would achieve a mix of housing types and would help to deliver a wide choice of homes and create a sustainable, inclusive and mixed community as required by the NPPF.

3.9 The main principles of the proposed design and layout of the site are outlined in the Design and Access Statement. The content of that document is considered appropriate as a basis for the reserved matters submission and therefore, a condition is recommended requiring any subsequent reserved matters applications to be in accordance with the principles of the Design and Access Statement.

3.10 CSS Policy CSP4 indicates that the location, scale, and nature of all development should avoid and mitigate adverse impacts (on) the area's distinctive natural assets and landscape character. This policy is considered to be consistent with the NPPF which states that the planning system should

contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

3.11 The site is located on a flat valley floor with the landform rising gently to the north, east, south and west. To the west is Maer Hills, covered in coniferous plantation woodland with areas of mixed native woodland, and to the east is Whitmore Heath, comprising low density residential development within a heavily wooded setting. To the north beyond an area of farmland is Madeley Park Wood, which is a low-density residential area in a wooded setting. The fields comprise managed hedgerows with two mature trees within the western boundary and the southern boundary comprises the garden boundaries of the adjoining residential properties. There is a public right of way adjacent to the eastern boundary heading from Baldwin's Gate north towards Madeley Park Wood.

3.12 Supplementary Planning Guidance to the former Staffordshire and Stoke-on-Trent Structure Plan, which was adopted in 2001, identifies the site as being an Ancient Redlands landscape character type. It states that the area is characterised by landscapes of mixed arable and pasture farming with a rolling landform and woodlands often located on higher ground. It states that incongruous landscape features include an expanding urban edge and that the potential value of new planting is very high. The SPG was used in the NLP to set policies for landscape consideration. This site is within an Area of Landscape Restoration and NLP Policy N21 states that within such an area it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape.

3.13 A Landscape and Visual Impact Assessment (LVIA) has been submitted to accompany the application. It concludes that on balance overall, the development would not lead to adverse effects that would not be mitigated in the medium to longer term and that the site and its context in landscape and visual terms has the capacity to accommodate development of the type proposed.

3.14 A letter has been received from Baldwin's Gate Action Group raising concerns with the photographs contained within the LVIA. The Action Group believes that the images have been taken in a panoramic format with a low camera angle which has the effect of distorting the images making the site and surrounding woodland appear relatively flat and featureless. It claims that the images fail to demonstrate that the site is in a valley location which can be clearly viewed from a number of surrounding residential properties, roads and footpaths and that it further diminishes the impressive nature of the surrounding woodland and hills. The Group have provided their own photographic images.

3.15 The applicant's agent has responded to the concerns of the Action Group by advising that the assessment was undertaken in compliance with best practice and the methodology developed from the 'Guidelines for Landscape and Visual Impact Assessment' third Edition 2013 published by the Landscape Institute and Institute of Environmental Management & Assessment (GLVIA). This includes guidance with respect to the selection of viewpoints and the taking of photographs.

3.16 In addition to the LVIA, a document comprising 'Verified Views' or 'Accurate Visual Representations' accompanies the application. The methodology for the production of these views has been informed by guidelines of the Landscape Institute and the views are intended to convey reliable visual information about the proposed development to assist the process of visual assessment. The locations of the viewpoints are from the public footpath to the north of the site and from Manor Road to the west. The applicant's agent has confirmed that they were chosen because Viewpoint 3 represents users of the public footpath, typically considered to be highly sensitive to change in the view and Viewpoint 11, which represents users of the public highway, is a view that would be experienced more frequently by a larger number of receptors than the footpath and on land at a slightly higher elevation than the site. The existing views are shown, along with a proposed wire line view, a proposed block model, and views showing planting at year 1, year 5 and year 15. The Landscape Development Section has confirmed that the tree heights assumed in each of these scenarios is generally reasonable.

3.17 It must be acknowledged that there are always limitations as to how well photographs can represent how the human eye perceives a view but the best practice guidance has been followed. There are limitations to the photographs submitted, both by the applicant and the Action Group, and your Officer has visited the site and surrounding area and the impact of the proposal has been

assessed with the human eye. Members have now had the benefit of a site visit and have been able to view the site from a variety of locations.

3.18 The development would noticeably encroach into the surrounding landscape and would be viewed as an extension of the village into the countryside. Due to the topography of the surrounding area, views of the site from within the village would be restricted to a limited number of residential properties that adjoin the site and in views gained along Gateway Avenue, Hillview Crescent and Sandyfields. As Members will have noted longer distance views would be gained from Manor Road to the north and east but they would be set against the context of the existing village development. Some views of the site viewed against open land beyond, through or at points over intervening vegetation would be gained in similar distance views from Snape Hall Road to the north-east. Views travelling along the A53 from the west would be limited to glimpses past Baldwin's Gate Farm. Clearly the development would be highly visible from the public right of way that runs along the north-eastern boundary of the site but in the medium to long term, the proposed landscaping would assimilate the proposals into the landscape. Overall, subject to conditions regarding proposed landscaping, it is not considered that the development would have such an adverse impact on the character or quality of the wider landscape to justify a refusal.

4. Is the loss of agricultural land acceptable?

4.1 Paragraph 112 of the NPPF states that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

4.2 The best and most versatile land is defined as that which lies within Grades 1, 2 and 3a. An Agricultural Land Quality Assessment based upon a field survey has been submitted with the application which concludes that the majority of the site comprises Grade 2 agricultural land (very good quality) with an area of Grade 1 (excellent quality) land in the north eastern corner. A representation has been received from Baldwin's Gate Action Group stating that the applicant's Agricultural Land Classification Survey incorrectly covers a field to the south-west of the application site and that the calculations within the survey are therefore incorrect. Although the Survey submitted with the application does include a larger area than the application site, the conclusions as outlined above are correct. Current estimates are that Grades 1 and 2 form only around 21% of all farmland in England.

4.3 The large scale strategic land classification map for the West Midlands (April 2010) provided by Natural England indicates that whilst the area that includes the site and its surrounds comprises Grade 1 and 2 land, the majority of agricultural land in the Borough is classed as just good to moderate. According to this map this area is the only land within the Borough adjacent to a settlement that lies within Grade 1 and 2. The applicant's agent argues that the plan should be treated with caution as it is of limited practical value and is not a substitute for a site-specific assessment by a qualified land surveyor. Your Officer acknowledges that the Natural England Land Classification Maps are not up to date in that they are not informed by any more detailed site specific assessments that may have been undertaken since the maps were prepared in 1976, but no such more detailed assessment is available.

4.4 A number of appeal decisions have been considered which assess the *significance of the loss* of agricultural land. In a decision relating to a housing scheme in Selsey, Chichester, where the site was mainly Grade 2 with a small amount of Grade 3a land, the Inspector considered that the weight to be attached to the issue should be towards moderate. However, it was concluded that even so, bearing in mind the modest size of the site which measured 1.75 ha, the consideration was not of sufficient force to prevent the development taking place. In another decision relating to a development of 7 dwellings at Malpas, Cheshire, the Inspector concluded that although the site might constitute Grade 1 and/or Grade 2 agricultural land, the resultant conflict with the saved Local Plan policy would be outweighed by the significant and pressing shortfall in housing land supply. In considering an appeal for up to 200 dwellings at Loachbrook Farm in Congleton, Cheshire East, the Inspector looked at information that had been submitted relating to the agricultural land classification of other sites classed as developable within that Council's SHLAA. The majority of those sites were on best and most versatile agricultural land and therefore the Inspector concluded that whilst the appeal proposal

would involve the loss of best and most versatile agricultural land, this carried neutral weight, as other preferred sites would also involve a similar loss.

4.5 In comparison to the above appeals, this proposal would result in the loss of a larger amount of agricultural land than the sites in Selsey and Malpas. The applicant's agent has commented that contrary to the case referred to at Loachbrook, there are no alternative or emerging sites that have any status in Development Plan terms. Your Officer agrees that this is the case and in any event, other than the Land Classification Map, no information is available regarding the agricultural land quality of any other land and therefore potential sites either in the vicinity of Baldwin's Gate or on the edge of other rural villages in the Borough.

4.6 Consultations with Natural England are required on planning applications where the loss of best and most versatile agricultural land will be 20 hectares or more. Although this site extends to just 5.6 hectares, the views of Natural England have been sought and their response, which is one of no objections, makes no reference to the loss of the agricultural land. However as always the final responsibility to consider the issue rests with the LPA.

4.7 The paragraph of the NPPF referred to above refers to 'significant' development of agricultural land but no definition of 'significant' is provided. In this case the site comprises 5.6ha of land. The site forms part of Baldwin's Gate Farm and the applicant's Planning Statement states that the land comprises just 2.2% of its total landholding which extends to 254 hectares (although that is not the size of the unit at Baldwin's Gate Farm itself). Although the site is only a very small part of the wider landholding, the site comprises best and most versatile land and therefore your Officer considers that it must be concluded that the loss of this land is a material consideration which weighs against the proposal. Whether this and any other adverse impact would significantly and demonstrably outweigh the benefits will be considered at the end of this report.

5. Would the proposed development have any adverse impact upon highway safety and does it provide appropriate pedestrian access to village facilities?

5.1 The site would be accessed from Gateway Avenue with an emergency access from Hillview Crescent that would also serve as an alternative pedestrian/cycle access.

5.2 Concerns have been raised by residents on the grounds that the access is already dangerous and would be inadequate to serve the additional dwellings, the width of Gateway Avenue is insufficient for commercial, delivery, service and emergency vehicles, and that as vehicles leaving and entering the Gateway Avenue would be unable to do so safely and without delay, there would be significant disruption to traffic flow on the A53. Concerns have also been raised that the additional traffic would increase the likelihood of serious injuries/fatalities occurring.

5.3 The application is accompanied by a Transport Assessment (TA) which states that the residual transport impacts of this development are likely to be minimal. It is stated that the level of traffic generated by the development proposal will be relatively modest and capacity analysis indicates no operational issues associated with vehicle delay or queues. In relation to sustainability, it states that the village benefits from the existence of several facilities including a primary school, shops, a public house and a post office. The village is served by a reasonably good bus service and the Travel Plan for this development will promote the use of sustainable travel as opposed to the private car. The TA concludes that:

"The residual transport impacts of this development are likely to be minimal and, on that basis, we recommend this development proposal for approval in terms of transport considerations."

5.4 The Highway Authority has no objections to the application subject to the imposition of conditions. Their initial response recommended a condition requiring a mini roundabout at the junction of Gateway Avenue with the A53. Further consideration of this has shown that it would not be an appropriate solution and therefore it is now proposed that the existing junction with Gateway Avenue will remain unaltered but with 'keep clear' road markings at the junction and a pedestrian crossing to the east of the junction incorporating a detection loop or sensors along Gateway Avenue. This would detect vehicles queuing at the junction and would interact with the proposed pedestrian crossing on the A53 thereby assisting traffic egressing from Gateway Avenue.

5.5 Representations have been received expressing concern about the width of Gateway Avenue and stating that any vehicles parked on Gateway Avenue restrict the road width to passage for only a single vehicle. Gateway Avenue is between 4.8m and 4.9m wide and the Highway Authority has confirmed that this is considered acceptable to serve the development bearing in mind the provision of on-site parking facilities for properties along Gateway Avenue, the good forward visibility along this road, the traffic calming effect of more constrained street geometry and guidance and principles contained within Manual for Streets. All of the dwellings on Gateway Avenue and Hillview Crescent have parking within their curtilage and a Parking Survey document that has been submitted by a Transport Consultant concludes that only very low on-street parking levels were observed. The parking levels were observed during several visits on both week days and weekends and at various times of the day. The survey methodology is considered appropriate by your Officer.. The advice of the Highway Authority on the consequences of the use of Gateway Avenue appears to your Officer to be appropriate and to reflect the particular circumstances of the case.

5.6 Regarding representations made in respect of the consultation response of the Highway Authority, your Officer notes that whilst the Keep Clear marking (at the Gateway Avenue / A53 junction) would operate on a courtesy basis there are many examples of this type of arrangement. It is the view of the Highway Authority, using nationally recognised housing vehicular traffic generation figures and detailed modelling, that the existing Gateway Avenue/ A53 junction could without modification accommodate the predicted traffic generation anyway so the loop system is a benefit but not a necessity. Your Officer has no substantive reason to either doubt the advice that has been provided by the Highway Authority or to hold a different view on the highway safety and capacity implications of the development.

5.7 Regarding concerns in relation to the proposed puffin crossing, the footway width is in the order of 1.5 metres and it is quite common for footways not to be separated from the highway by grassed verges (and there is no reason here to consider that would be a particular problem). It is considered that any obstruction to forward visibility or blocking of the footway would be of a temporary and infrequent nature.

5.8 The Highway Authority is however of the view that Gateway Avenue is of insufficient width to accommodate a high volume of construction traffic and has therefore recommended a condition requiring a Traffic Management Plan to include details of the management and routeing of demolition/construction traffic. The applicant has submitted details of a proposed temporary construction access from the A53 approximately 100m to the east of the existing access to Baldwin's Gate Farm, 35m from the junction of the A53 with Lakeside Close and approximately 90m from the junction of the A53 with Sandy Lane and Woodside. A document has been submitted by a Transport Consultant that includes details of both the access and lorry routeing. It concludes that the A53 and A51 are capable of carrying heavy vehicle traffic and that the overall levels of construction traffic will be low. It states that all construction vehicles will be encouraged to follow the preferred access and routeing strategy.

5.9 The Highway Authority have considered the submitted construction access document and although no formal response has yet been received, they have advised informally that they have no objections subject to a routeing plan requiring that construction traffic should avoid Sandy Lane and Woodside (the links between the A53 and the A51 immediately to the south west of Baldwin's Gate village) and thus the somewhat awkward manoeuvre that there would be across the A53 at this point.

5.10 Members need to remember that the NPPF indicates (in paragraph 32) that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are *severe*. Whilst it is the primary responsibility of the LPA to either accept or reject advice from statutory consultees such as the Highway Authority, it has to understand the basis for doing so, and it is required to give thorough consideration to that advice. The Highway Authority does not raise objections to the application and your Officer's view is that, subject to the imposition of the conditions referred to above and listed in the recommendation, the impact of the proposed development on transport grounds would not be severe and therefore an objection on such grounds could not be sustained.

5.11 In terms of the accessibility of the site to the services within the village, the indicative masterplan shows a network of pedestrian footpaths which will connect with the existing streets and the public right of way. It is considered that linkages from the site to the village will help to reduce the requirement for residents to use their car and will help to ensure a sustainable development. One of the recommended conditions refers to a scheme for the improvement of the public footpath that runs along the north-eastern boundary of the site to the A53. The indicative masterplan shows a link from the site to the village via the public right of way and this is considered important in terms of helping to ensure that the occupiers of the dwellings would be able to access facilities within Baldwin's Gate on foot by the most direct and shortest route, thus encouraging this mode of travel. The footpath is currently rather overgrown and is not lit in any way and it is considered that it would benefit from improvements, although it is narrow. The footpath runs adjacent to the rear of the properties in Hillview Crescent and therefore lighting could have the potential to have an adverse impact on the residential amenity of the occupiers of those properties, although by careful design that issue should be able to be addressed. Surfacing of the footpath would be very beneficial and would help to create a more attractive and accessible route.

6. What impact would the development have upon the local school in terms of additional pupil numbers and how could this matter be addressed?

6.1 Staffordshire County Council as the Education Authority originally requested a sum of £547,318 for both primary and high school places. The applicant has responded by submitting a breakdown of dwellings and requesting from the Education Authority clarification of the contribution sought. This is on the basis that in their view additional capacity could be made available within the Baldwin's Gate catchment area if priority is given to new pupils living within the designated catchment area and moreover, they consider that there is capacity within the surrounding schools to accommodate any pupils travelling from outside the Baldwin's Gate catchment area to a more appropriate location.

6.2 A further response was then received from the Education Authority indicating that the breakdown of dwellings provided (confirmation of the maximum number of dwellings as 113 and details of the number of affordable units proposed) would reduce the requested education contribution to £492,012.

6.3 They went on to state that their policy indicates that where a school has more than 10% of its total roll from outside its catchment, these pupils can be excluded from the calculation of need if there are sufficient local surplus spaces. Based upon legislation (Section 14 of the 1996 Education Act) they submit that schools available in an area are not to be regarded as sufficient in number, character and equipment to provide for all pupils the opportunity for appropriate education. They refer to the duty upon LEAs to "secure diversity in the provision of schools and to increase opportunities for parental choice", and they submit that the number of out of catchment pupils on roll at the primary school demonstrates that their duty to promote parental preference has been met.

6.4 The LEA advises that Baldwin's Gate Primary School is one of 7 schools identified as a cluster based on geographical location, which serve the area of Keele, Madeley and rural communities that cover the wider catchment of Madeley High School. They state that the non-catchment children attending Baldwin's Gate Primary School predominantly live within one of two primary school catchment areas – Hugo Meynell CE Primary in Loggerheads and The Meadows Primary School in Madeley. They confirm that the projections for The Meadows Primary demonstrate that the demand outweighs the number of places available and while the projections for Hugo Meynell School demonstrate that there will be some places available, this school is some distance from the proposed development. The LEA states that the three schools referred to by the applicant are all beyond what would be deemed reasonable for a primary aged pupil to travel which is 2 miles walking distance.

6.5 In response to the suggestion from the applicant that capacity could be made available within Baldwin's Gate catchment area if priority is given to new pupils living within the designated catchment, details of the admissions arrangements have been provided. On the basis that priority is given to children in care, pupils with medical or exceptional circumstances and siblings of pupils already in the school, it is stated that there will therefore always be a small proportion of pupils on roll who do not live in the catchment area. Any residential development within the catchment of Baldwin's Gate Primary School will increase the demand for school places however the required education contribution for primary school aged children has been revised to £242,682 based on the breakdown of dwellings provided.

6.6 With regard to Madeley High School, projections indicate that there is some limited availability in one of the five year groups at that School and the requested education contribution has been reduced to £199,464 (12 x £16,622) to take this into account. The total necessary education contribution to mitigate the impact of this development has therefore been revised to £442,146.

6.7 Councillor Loades as Ward Councillor and County Councillor has expressed concern that there has been a failure to consult with Madeley High School which is an Academy school and is not controlled by the local Education Authority. He has advised that the school board has genuine concerns over meeting the increased need due to the considerable investment required and the lack of facility and space to support any additional need, including that which might arise from developments across the wider rural area. In addition, the Church of England has not been consulted. He requests that the application should be deferred until both the school and the Church of England have been consulted.

6.8 There is no requirement upon a Local Planning Authority to consult with either the Education Authority for the area within which an application site lies or schools within whose catchment an application site may lie. In coming to a recommendation on the issue of whether or not a financial contribution towards education facilities is required your officers have had regard to the views of Staffordshire County Council who are the Education Authority for the area.

6.9 The Council's adopted Developer Contributions Supplementary Planning Document refers to the policy justification for seeking a planning obligation in respect of education and indicates that developments of 7 or more dwellings or sites greater than 0.2 hectares may be required to provide a financial contribution towards education provision. It then goes on to state that "*as the authority responsible for education, the County Council will be consulted on relevant planning applications*" and that "*the Borough Council will, in consultation with the County Council as Local Education Authority, in appropriate situations, seek to secure contributions towards education facilities in accordance with Staffordshire County Council's adopted Education Planning obligations Policy.*"

6.10 Whilst it is appreciated that the document dates from 2007 and since then there has been a significant increase in the number of schools that have made arrangements to become Academies and similar, your Officer has spoken with the Head of School Organisation, Admissions and Transport at the County Council who has advised that irrespective of whether a School becomes an Academy or stays 'maintained', the planning for school places remains a statutory responsibility and duty of the County Council.

6.11 For this reason your Officer maintains that it is appropriate that the Local Planning Authority should continue to consult with the Education Authority, and only the Education Authority, to obtain appropriate advice on the education capacity consequences of development. No other party is in an appropriate position to provide the advice which the Local Planning Authority requires to make a considered decision on this issue. As to the issue of the what might be needs of the rural area if other developments proceed, the law is clear - planning obligations should be sought only where they are necessary to make the development (which is the subject of the application) acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. In the event of other proposals for residential development coming forward, consultations with the Education Authority would be undertaken on any for 7 units or over (in line with the Borough Council's policy), and their educational consequences considered at that time. Your Officer is satisfied that the contribution that is recommended meets the statutory tests, and that no further consultation is appropriate.

7. Is affordable housing provision required and if so how should it be delivered?

7.1 CSS Policy CSP6 states that residential development within the rural area, on sites of 5 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

7.2 This outline application proposes up to 113 dwellings and at 25% provision for affordable housing, 28 affordable dwellings would be required. On this site it is proposed to provide 16% of the affordable housing obligation on site (18 dwellings in total) with the remaining 9% (10 dwellings) delivered off-site. The reasons put forward for this by the applicant are as follows:

- The Council's stated aspiration for an increase in the supply of executive housing
- The potential conflict between the type of executive housing to be provided and the affordable housing needed
- The ability to create a mixed and integrated community with the affordable housing seamlessly integrated when the required property types by tenure are diametrically opposed
- While the location of the scheme will be sustainable for those in work with access to private transport, who in turn will support and enhance local services and infrastructure, it might be in question whether this is equally true for residents of affordable housing
- There is no location specific evidence to suggest that there is a sustainable long-term demand for this scale of affordable housing in Baldwin's Gate whereas high demand in other locations across the Borough is clearly evidenced

7.3 The applicant believes that taking account of all these factors a hybrid approach should be considered with partial on-site delivery but with the balance being made up by way of a commuted sum to facilitate off-site delivery.

7.4 Paragraph 50 of the NPPF states that where they have identified that affordable housing is needed, local planning authorities should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. The Council's Developer Contributions SPD states that whilst affordable housing should be provided on the application site so that it contributes towards creating a mix of housing, where it can be robustly justified, off site provision or the obtaining of a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted. The SPD suggests that one of the circumstances where offsite provision may be appropriate is where the Council considers that "the provision of completed units elsewhere would enable it to apply the contribution more effectively to meet the Borough's housing need".

7.5 Your officer does not accept much of the justification put forward by the developer for wishing to adopt a hybrid approach. However, in this instance, in the absence of an up-to-date Parish needs Survey for Baldwin's Gate, there is some merit in the argument that there is no location specific evidence to suggest that there is a sustainable long-term demand for this scale of affordable housing in Baldwin's Gate whereas there is evidence of high demand in other locations across the Borough. In this instance it is considered that a proportion of the required affordable housing provision could be secured by means of a financial contribution to off-site provision. It is critical that calculation of the level of financial contribution fully takes into account the real difference between the costs of offsite and onsite provision, so that there is no financial benefit to the developer in proceeding in this way. Discussions regarding the methodology of the calculation of the commuted sum are ongoing between the applicant and your Officers.

8. Would the development have any adverse impact upon residential amenity or public health?

8.1 One of the core planning principles of the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

8.2 The West Coast Main Line runs along the north-eastern boundary of the site. A Noise and Vibration Impact Assessment accompanies the application and it concludes as follows:

A 45m stand-off distance from the northern site boundary that is bound by the railway line has been incorporated into the site. This distance has been included in the calculations and subsequent assessment.

The Noise Impact Assessment has recommended the installation of window mounted trickle ventilators in order to control noise within residential dwellings that face the railway line and have line

of sight with the A53. The Noise Impact Assessment has also recommended the installation of acoustic fences at certain positions on the site in order to control noise within external amenity areas.

The Vibration Impact Assessment has found that the level of vibration produced by passenger commuter trains and freight trains using the railway line fall below the 'low probability of adverse comment' criteria as detailed in BS6472:2008.

The High Speed Railway Line (HS2) is planned to be constructed to the north-east of the site and will pass within 750m of the closest proposed residential dwelling. The section of track closest to the site will be a tunnelled section. Due to the intervening distance and tunnel section it is considered that HS2 will not be audible over the existing noise climate at the site.

It should be noted that all of the calculations performed in this assessment are based on worst-case assumptions and the actual level of noise within external amenity areas and internal habitable rooms is likely to be lower than the calculated noise levels.

8.3 The Environmental Health Division has no objections to the proposal subject to the imposition of conditions including a requirement for further noise assessment and appropriate mitigation measures.

8.4 With respect to the interrelationship of the proposed dwellings with the neighbouring properties, the outline nature of the application requires the decision-maker to anticipate the likely form of development. It is considered that subject to careful control over positioning of windows, sufficient distance can be achieved between dwellings to comply with the Council's Space Around Dwellings SPG.

8.5 In relation to the existing properties, subject to careful positioning of windows it is anticipated that there would be no significant adverse impact on amenity. Within the site it is considered that adequate separation distances between plots can be achieved and that sufficient private amenity space would be provided.

8.6 The proposed construction access would run to the rear of properties on Sandyfields. It would be approximately 60m to the rear of the nearest property and approximately 25m from the nearest garden. It is considered that there would be sufficient distance between the access and the dwellings on Sandyfields to ensure that there would be no significant adverse impact on residential amenity, subject to the imposition of appropriate conditions concerning the construction and use of the track

8.7 Concerns have been raised regarding a large mound in the area of the proposed construction access which is allegedly where the farm burned and buried large numbers of cattle during a foot and mouth outbreak. It is considered that this may cause an environmental hazard by disturbing the ground for the construction access. The applicant has advised that he has contacted the landowner who has confirmed that some carcasses were buried to the west of the farmhouse between the farmhouse and the properties on Madeley Road but not in the field where the construction access would cross. Your Officer has sought the views of the Environmental Health Division, the Environment Agency and Staffordshire County Council's Animal Health Team on this matter. The Environment Agency has confirmed that they hold no record of any such activity taking place and they recommend further consultations, as does the Environmental Health Division. Although no consultation has been carried out directly with DEFRA, as recommended by the above bodies, given that Staffordshire County Council Animal Health Team have sought information from DEFRA Animal Health and Veterinary Laboratories Agency, it is not considered necessary. The comments of the Animal Health Team are awaited and your Officer intends to provide an update on this matter in a supplementary report to Members.

8.8 Overall, it is not considered that a refusal could be sustained on the grounds of adverse impact on residential amenity.

9. Would there be any significant impact upon any protected species?

9.1 Representations have been received stating that the site is used for feeding for bats and a variety of birds and is home to small mammals and grass snakes. There is concern that this natural habitat would be destroyed.

9.2 An Ecological Survey submitted to accompany the application states that there is no conclusive evidence of any specifically protected species regularly occurring on the site which would be negatively affected by the site development.

9.3 Natural England has advised that on the basis of the information submitted, the proposed development would be unlikely to affect bats or great crested newts and raises no objections subject to the imposition of conditions to ensure the development is undertaken in accordance with the Ecological Appraisal and Ecological Mitigation Strategy. The application is in relatively close proximity to Maer Pool Site of Special Scientific Interest (SSSI) and Natural England is satisfied that the proposed development will not damage or destroy the interest features for which the site has been notified.

9.4 It is not considered therefore that a refusal could be sustained on the grounds of adverse impact on protected species.

10. Would there be any issues of flood risk or sewage capacity?

10.1 Concerns have been expressed by objectors on the grounds that during the winter months the site is subject to periodic flooding adjacent to some of the existing properties and building on the land would only exacerbate the problem. A Flood Risk Assessment (FRA) submitted to accompany the application concludes that the proposed development is not at significant flood risk subject to the implementation of flood mitigation strategies. These include finished floor levels of the dwellings to be raised above surrounding ground levels.

10.2 The Environment Agency states that the site is located within Flood Zone 1 which is an area of 'low risk' of flooding and therefore raises no objections subject to conditions including a requirement to carry out the development in accordance with the FRA and the mitigation measures included within the FRA. Subject to the imposition of conditions, it is not considered that an objection could be sustained on the grounds of flood risk, including to the railway line.

10.3 Concerns have been raised regarding sewage capacity. However neither of the relevant statutory undertakers – United Utilities and Severn Trent Water – have expressed any concern on this point in their responses to this application. Your Officer has raised this issue directly with them and as will be seen from the consultation response section both have provided further comments, raising no concerns.

11. Will appropriate open space provision be made?

11.1 NLP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured.

11.2 The illustrative Masterplan submitted with the application proposes public open space along the northern and north-eastern boundaries of the site with a smaller area adjacent to the entrance into the development. It is envisaged that the open space would incorporate areas of themed natural play which will be accessible to both new and existing residents via a new network of pedestrian footpaths and the existing Public Right of Way.

11.3 The Landscape Development Section has no objections in principle to this application and is satisfied that the amount of public open space proposed on site is appropriate to the size of the development. There is no requirement for a financial contribution towards the development or improvement of off-site green space therefore. A maintenance contribution to the value of £216,960 for the 113 dwellings or a maintenance agreement for the long-term maintenance of the open spaces on the site would be required. This should be secured through a planning obligation achieved by agreement.

12. Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

12.1 In consideration of the above points, the development would result in some local impact on the character and appearance of the area and there would be a loss of best and most versatile agricultural land. However, the proposal represents sustainable development which would make a significant contribution towards addressing the undersupply of housing in the Borough. It is considered therefore that the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. It is therefore considered that the proposal accords with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF. On this basis planning permission should be granted provided the required contributions are obtained to address infrastructure requirements and appropriate conditions are used, as recommended.

Background Papers

Planning file
Planning documents referred to

Date report prepared

5 February 2014

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ADVANCE SUPPLEMENTARY REPORT

TO THE PLANNING COMMITTEE

18th February 2014

Agenda item 4

Application ref. 13/00426/OUT

Land off Gateway Avenue, Baldwin's Gate

Since the preparation of the agenda report, the updated comments of the **Highway Authority** have been received. Their comments are as per those in the agenda report with the additional requirement that demolition/construction traffic does not utilise Sandy Lane/Woodside and confirming that the submitted construction access plan is considered acceptable for its purpose subject to a condition requiring a Construction Traffic Management Plan.

Two further letters have been received from **Whitmore Parish Council (WPC)**. A summary of the comments made is as follows:

- The construction access proposal submitted by Richborough that is accompanied by a copy of an appeal decision should not have been accepted. It appears to be a 'frightener' for the Planning Councillors and an attempt to put them under pressure. The Parish Council went to Moulton (the appeal site) to investigate how it compared with Baldwin's Gate and they have a full report that says it is five times the size of Baldwin's Gate and has five times the facilities and no Class A road is involved.
- The farm site suffered from foot and mouth disease in 1967/68 however there is no mention of this in the application. It is believed that there is a burial site close to the newly proposed entrance and, according to the Foot and Mouth code, could have devastating consequences on a site that slopes west to east and is prone to flooding. Seepage/leakage can escape from such burials for over 100 years.
- During the building of the existing Gateway/Hillview site major flooding issues were encountered. The Inspector, when turning down the last application for development of the site at the end of Gateway Avenue, stated that 'there were technical difficulties of disposing of surface water which had not been resolved'.
- Your officers are seeking to deal with matters by condition where that is inappropriate
- The concerns of the residents of Baldwin's Gate village should be considered and all those in public office should at all times demonstrate a balanced and impartial approach in fulfilling their duties.
- The Parish Council note that vehicles approaching the village travelling towards Newcastle do so down a long straight stretch of road and frequently enter the 30 mph limit at speed. They then have to brake fairly hard in order to slow down sufficiently as they enter a fairly tight bend before proceeding past the proposed access route junction some 100 yards further on. Vehicles are frequently observed straying partly into the opposite land as they come out of the bend. The Parish Council believes that the placing of the proposed construction access in the proposed location on the A53 would present very real danger of frequent vehicle collisions, and request that if the application is permitted, the Highway Authority should be required to install very visible traffic calming measures at the western entrance to Baldwin's Gate for the duration of the construction period..

- The Highway Authority has advised that construction vehicles should not use either Woodside or Sandy Lane. For those travelling from the south, the turning onto the A53 from the A51 at the Swan with Two Necks junction is not suited to such vehicles and so presumably they would have to travel via the A34 Trentham. This route constraint should be formalised by condition.
- The removal of 45m of hedgerow needs to be organised with considerable care due to the legal constraints relating to nesting birds.

Further comments have been received from **Maer and Aston Parish Council**. They object to the proposed construction access road on highway safety grounds.

Three further letters have been received from **Baldwin's Gate Action Group (BGAG)**. A summary of the comments made is as follows:

- The submitted PTB Parking Surveys Document refers to an appeal decision for a site in Moulton and states that the Moulton development and the Gateway Avenue proposal are similar for a number of reasons. Members of the Action Group have been to Moulton, taken evidence from local residents, measured dimensions of road network systems and confirmed details of the appeal with the Clerk of the Parish Council. They have submitted a table which compares the two sites and they comment that Moulton is significantly larger than Baldwin's Gate, the road network at Moulton has been constructed as part of a new housing development and the facilities within Moulton are comprehensive and would enable residents to shop locally for the majority of their needs. There are significant differences in the size, scale and location of the two sites and it would be inappropriate and inaccurate to carry out a direct comparison between the two.
- The Officer's report gives an interpretation of the NPPF but it is just an opinion and open to dispute and challenge. Judgements of adverse impacts and whether they significantly and demonstrably outweigh the benefits are largely a matter of opinion and there have been many appeals which have been refused despite the lack of a five-year supply because greater weight was given to other adverse effects of granting planning permission.
- Two appeal decisions are referred to which are more relevant to the Gateway site than the examples put forward by the applicant – Land to the rear of Nos. 12 and 13 Gaston's Lane, Bower Hinton, Somerset and Land at Bentfield Green, Stanstead Mountfitchet, Essex.
- In the Bower Hinton appeal, the Inspector took the view that demonstrably harmful impacts on the countryside were not outweighed by the Council's lack of a five-year housing land supply, the benefits of the scheme or the NPPF's presumption in favour of sustainable development.
- In the case of the Stanstead Mountfitchet appeal, the housing land supply was reappraised between application and appeal. It is considered that not enough time has been given for other sites to come forward which would be more sustainable and not involve the loss of best and most versatile agricultural land.
- The Group strongly disagrees with the Officer's opinion that Baldwin's Gate is a sustainable location and that this proposal represents sustainable development for reasons stated previously.
- It is suggested that the application should be refused on the grounds of inconsistency with the Development Plan, inconsistency with the principles of sustainable development, inconsistency with the protection of the best and most versatile agricultural land, and non-conformity with the protection afforded to the open countryside and landscape character.

- A witness statement has been submitted confirming the existence of ransom strips at the head of Gateway Avenue and Hillview Crescent. Land registry searches have confirmed that neither the applicant nor the site owners have registered ownership of these strips. Residents who have maintained and tended these strips for 18 years have submitted applications for adverse possession of the strips.

Since the preparation of the agenda report **22 further letters of representation** have been received. A number of the points made are ones already made by other parties – these include concerns regarding land which is reportedly where large numbers of cattle were buried during a foot and mouth outbreak, highway safety concerns regarding the construction access, issues relating to housing policy, flooding concerns, the loss of best and most versatile agricultural land, that the scheme is overdense, that the applicant's photographs are distorted, and that for assorted reasons already documented in the representations section of the agenda report the development is an unsustainable one.

A summary of the **additional points** raised is as follows:-

- Part of the HS2 High Speed Rail project proposes to bring local railway lines and stations back into use and one of the railway stations proposed for reopening is Whitmore. The development jeopardises the proposals to reopen Whitmore railway station on the basis that part of the application site is likely to be the favoured option for the siting of a station car park and access to the station car park will probably need to be made via Gateway Avenue. Any approval for the proposal in order to satisfy a short-term requirement but which might have severe adverse implications for a much larger long-term scheme, is clearly counter-productive and not in the interests of Newcastle Borough as a whole, nor in particular to those communities that might be prevented from regaining a rail service. It would therefore be inappropriate for the planning application to be approved at least until such time that the HS2 Bill is passed by Parliament and the final HS2 route known.
- Examination of 1890-91 and 1925 Ordnance Survey maps shows that the mound at the northern end of the proposed construction access route is a pre-existing feature of the landscape and therefore was not a site for the disposal of animal carcasses during the 1967 foot and mouth disease epidemic, however the mound is a prominent feature in a landscape that otherwise is flat/drops away to the west and it is also very regular in shape. The hill fort of the Iron Age tribe of the Cornovii at Berth Hill lies about a mile and a half away to the south-west of the site. All these factors combine to suggest that the mound could be a site of archaeological interest and should be investigated as such.
- The applicant's Flood Risk Assessment refers to soakaway tests which were supposedly undertaken in June 2013 which was a very dry period. Nothing is soaking away now due to the height of the water table. Two photographic reports have been submitted and residents adjacent to the field are extremely concerned about the future flood risk to their properties. It is queried whether the Borough Council will be prepared to indemnify residents for future flood damage to their properties caused by run-off from the hard surfaces and increase in the height of the water table caused by developing the field.
- Although a number of conditions are recommended, the Borough Council's Report on Open Enforcement Cases shows that the Planning Department's record on enforcement of conditions is inadequate. Residents can have little confidence that the conditions would be rigorously enforced.

Your Officer's comments on the above

The conditions recommended by the Highway Authority are already reflected in the recommendations in the agenda report.

Contrary to the view of WPC, your Officer considers that it was entirely appropriate for the Local Planning Authority to accept the applicant's submission of the construction access route details provided it publicised its receipt and gave an opportunity for interested parties to comment upon the submitted details - which it has now done.

As detailed in the agenda report the Borough Council has received representations concerning the possible presence of an animal carcass burial site along the route of the access, and officers have undertaken consultations with the Environment Agency, the Animal Health Team at Staffordshire County Council and the Environmental Health Division. The applicant has informed the Planning Authority that they have been advised by the landowner that some carcasses were buried to the west of the farmhouse between the farmhouse and the properties on Madeley Road but not in the field where the construction access would cross. The views of the **Animal Health Team** are still awaited, and officers will provide a supplementary report on this matter.

The proposed construction access and the issue of highway safety is considered in the agenda report. The Construction Access Plan document produced by the applicant's Transport Consultant recommends that construction vehicles routing from the A34 (Stone) area and approaching via the A51 continue along the A51 before turning eastwards (at the Swan with Two Necks junction) along the A53 to access the site. Subject to a condition requiring construction traffic to not use Sandy Lane/Woodside, the Highway Authority has no objections to the proposed construction access so they must be assumed to accept use of the Swan with Two Necks junction. The HA do not consider that further traffic calming measures in the vicinity of the construction access are required to ensure a safe access. Further conditions are not proposed by your officer in this respect because there is no substantive reason to dispute the advice of the Highway Authority on this matter.

WPC's suggestion that there be a condition about the timing of works to the existing hedgerow is reasonable and this is reflected in the recommendation made below.

With respect to the case that there may be ransom strips at the end of Gateway Avenue and Hillview Crescent, even if this were established to be the case (which is not the position) it is not material to the determination of the planning application.

WPC refer to a previous appeal decision, presumably the appeal decision dated 5th April 1965. The quotation referred to is not from the decision of the Minister, but rather is an extract from the report to the Minister by the Inspector and it comes from the section headed the "case for the planning authority". The Inspector in paragraph 25 of that report makes a number of 'findings of fact' including "*(h) there are difficulties in the disposal of sewage and surface water from the proposed houses and roads but these difficulties are not insurmountable*". The issue of drainage did not form one of the bases upon which he recommended dismissal of the appeal, or of the Minister's decision.

The adequacy of soak away tests which were undertaken in a very dry period in 2013 has been questioned. Whilst there is detailed guidance available on the undertaking

of soakaway, or percolation, tests this guidance refers to those situations where consideration is being given to the treatment and disposal of sewage without a foul sewer - which is not the scenario in this case. The Report that is referred to states that the soakaway testing was undertaken to BRE Digest 365 methodology which your Officer understands is an industry recognised standard, and there is no evidence that this was not the case. The Local Planning Authority upon receipt of the document referred to undertook a consultation with the Environment Agency. The Environment Agency, in their response to this consultation dated 30th September 2013, raised no concerns about the adequacy of the soakaway tests that were referred to within the document, and they noted that infiltration drainage is possible on the site as means of surface water disposal. The agenda report includes a condition recommended by the Environment Agency - that no development should take place until a surface water drainage scheme for the site, based on sustainable drainage principles, and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority; and that the scheme shall also include details of how surface water runoff up to and including the 1 in 100 year event plus climate changes will be retained on site and details of how any surface water drainage scheme will be maintained. The recommended condition accordingly does not expressly indicate that the submitted Flood Risk Assessment is approved.

It is queried whether the Borough Council will be prepared to indemnify residents for future flood damage to their properties caused by run-off from the hard surfaces and increase in the height of the water table caused by developing the field and it is suggested that it would be culpably negligent for the Council to allow the development. Whilst Local Planning Authorities do not enjoy blanket immunity from claims of negligence arising from the operation of their development control functions, it is your Officer's understanding that development control functions do not involve a duty of care that may give rise to liability as determining planning applications is a regulatory matter in which the authority must act for the benefit of the area as a whole, having regard to policies. In this case having taken appropriate advice and provided it follows that advice, appropriate care has been taken and so no duty of care would arise. Legal advice has been sought on this matter and Members will be provided with an update.

The issues of the sustainability of Baldwin's Gate, the loss of agricultural land and the impact on the landscape have been considered at length in the agenda report and it is not considered necessary to comment any further on these issues now.

The Moulton appeal decision is referred to by the applicant in their Parking Surveys and Site Access document and in response, BGAG state that there are significant differences in the size, scale and location of the two sites that make it inappropriate and inaccurate to carry out a direct comparison between the two. It is acknowledged that the two locations are different in terms of size but the reference to the decision by the applicant relates particularly to consideration of access. There do appear to be some similarities in terms of the limited width of the access (from the main highway, although Gateway Avenue is narrower) and the Inspector's consideration of the issues of increased traffic and on street parking.

Two further appeal decisions have been referred to by BGAG. In the Bower Hinton case, the Inspector concluded that the potential contribution of the scheme to the supply of housing is outweighed by the unacceptable harm that would be caused to the area's character and appearance and in the Stansted Mountfitchet case, the Inspector concluded that the appeal proposal would not meet the environmental dimension of sustainable development and therefore, it follows that the general

presumption in favour of sustainable development does not apply. Whilst it is acknowledged that appeals have been dismissed despite the lack of a 5-year housing land supply, there are many factors that need to be weighed in the balance in each case, and in this instance, your Officer remains of the view that this proposal represents sustainable development and the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal.

Regarding the objection that has been received on the grounds that the development jeopardises the proposals to reopen Whitmore railway station (in that it would use a site that might be used as a car park for a reopened station, or the same access), given the very early stage which the HS2 Phase 2 proposal has reached (the consultation on route alignment has just closed), the possibility that in any event there may be alternative locations for any such facility, and the lack of safeguarding for such a facility within any development plan, it is not considered that this argument can be given any weight by the Planning Authority.

Regarding the alleged site of archaeological interest, the Historic Environment Record (HER) which is a record of all the historic and archaeological sites and finds within the county, includes no record at Baldwin's Gate Farm. In addition, your Officers have visited Baldwin's Gate Farm to view the mound. Contrary to the assertion of the resident, the mound is an irregular 'tear drop' shape and whilst it is approximately 4m in height it slopes more steeply in some places than others, although none of the slopes are particularly steep. There are other undulations within the surrounding landscape. On the basis of what was seen on site and the information on the HER, it is not considered that there is any evidence to suggest that the site is of any archaeological interest.

The visit has confirmed the location of the track relative to the mound. It would run up the ridge of the mound to the highest point. In landscape terms that is not desirable and such an alignment would make it more difficult to achieve an appropriate relationship between the track and adjoining residential properties – simply because of the elevation (about 4 metres above adjoining ground level). A more appropriate route would be along the western side of the mound. Although that would be beyond the current application site boundary, such a proposal could be achieved an appropriately worded negative condition.

The RECOMMENDATION therefore remains as set out within the main agenda report with additional conditions relating to the alignment of the track within the field and the timing of the removal of the hedgerow (to avoid the bird nesting season).

Supplementary Information

The following information was verbally reported to the Planning Committee at its meeting on 18th February 2014

Agenda Item 4

Application Number 13/00426/OUT

Both the Agenda Report and the Advance Supplementary Report state that Officers will provide a supplementary report on the matter of the possible presence of an animal carcass burial site along the route of the proposed construction access. The comments of the **County Council's Animal Health Team** have not been received but comments have been received from the **Animal Health and Veterinary Laboratories Agency**, an executive agency of **DEFRA**. They state that they have incomplete records of a notifiable disease burial site at the location and there are no details of any stock numbers or type of stock. They go on to state that if sites are disturbed there may be implications under the Control of Pollution Act and in this respect it is suggested that the appropriate authorities are contacted. In the event that animal remains are discovered in the course of land excavation, work should cease immediately and the occurrence or suspicions should be reported. A licence will be required under the Animal Health Act 1981 to enable the remains to be excavated and be re-buried in a secure disposal site.

As detailed in the Advance Supplementary Report, the applicant has informed the Planning Authority that the landowner has advised that some carcasses were buried to the west of the farmhouse between the farmhouse and the properties on Madeley Road but not in the field where the construction access would cross. No evidence has been received from any consultees to suggest that this is incorrect (although records apparently do not exist) and in any event, should any remains be discovered during excavation, then a licence would be required under separate legislation. The possibility of the works of formation of the track revealing a burial site is neither grounds for refusal of the planning application nor is it necessary to include any condition on a grant of planning permission either – bearing in mind the clear guidance that planning conditions that duplicate other forms of control are unnecessary and therefore should be avoided. Where other controls are available normally the only circumstances where a planning condition may be needed is if the considerations material to the exercise of the two systems of control are substantially different. This is not considered to be the case here.

For the avoidance of doubt Members are advised that any reference to construction traffic within the Agenda Report, including in its recommendations, or the Advance Supplementary Report, relates to vehicles that exceed 3 tonnes in weight. Officers of the Highway Authority have verbally indicated that they do not consider that Gateway Avenue is an inappropriate access for construction traffic of less than 3 tonnes in weight (unladen). To give members some indication a 'transit van' or similar would normally be under that weight.

Finally with respect to the suggestion that the Council would render itself liable for claims with respect to flooding affecting existing residential development - the Local Planning Authority is undertaking a statutory function, and should exercise this function reasonably and to an appropriate standard. Provided the Planning Authority has consulted with the appropriate statutory consultee and has taken into account

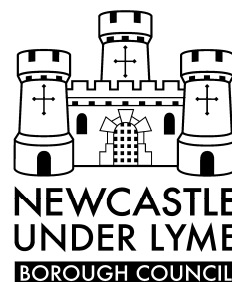
and acted upon the consultation as is the case if the authority imposes a Grampian condition as proposed by that consultee, the view of the Head of Business Improvements, Central Services and Partnerships is that the Council would not be liable for, and could successfully defend any claim for damages resulting from the type of action detailed in the supplementary report.

The recommendations remain one of approval of the application unless the sought for planning obligations are not secured by 14th April, all as detailed in the Agenda Report and the Advance Supplementary Report, for the reasons indicated in the Agenda Report.

DRAFT

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION



Application number: **13/00426/OUT**

To:- Richborough Estates Ltd
c/o Richard Lomas - Hourigan Connolly
7 Swan Square
15 Swan Street
Manchester
M4 5JJ

The Council of the Borough of Newcastle-under-Lyme in pursuance of powers under the above-mentioned Act hereby refuse to permit

Description of development

Erection of up to 113 dwellings and associated works

Location of development

Land At End Of Gateway Avenue Baldwins Gate

for the reasons specified overleaf. The applicant's attention is drawn to the notes set out at the end of this decision letter

Date 10 March 2014

A handwritten signature in black ink that reads 'Guy R. Benson'.

Head of Planning & Development
Planning & Development Service
Directorate of Regeneration & Development
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TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION



Application number: **13/00426/OUT**

1. The proposal does not accord with the strategy of targeted regeneration and spatial principles which are set out within the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and that of regeneration as set out within the Newcastle-under-Lyme Local Plan 2011, and it is contrary to Paragraph 17 of the National Planning Policy Framework (2012).
2. This greenfield site is outside of the village envelope of Baldwin's Gate, in the open countryside, and outside of the Rural Service Centres as identified on the Newcastle-under-Lyme Local Development Framework Proposals Map. The proposed development would not meet any identified local requirement. The proposal is thereby contrary to Policy H1 of the Newcastle-under-Lyme Local Plan 2011, Policies SP1 and ASP6 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, and the guidance of the National Planning Policy Framework (2012).
3. Having regard to guidance within the National Planning Policy Framework (2012), Baldwin's Gate is not a sustainable location for further residential development by virtue of the limited services available within the settlement, the limited public transport available, and its location in relation to the conurbation and other settlements. The fact that Baldwin's Gate is not identified as a Rural Service Centre in the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 is demonstrative of its limited services which are inadequate to support the needs of the expanded population of Baldwin's Gate that would be a consequence of the proposed development.
4. The proposed development would result in the permanent loss of best and most versatile agricultural land and in the absence of any evidence to show that areas of poorer quality land cannot be developed in preference to that of a higher quality, the proposal is contrary to paragraph 112 of the National Planning Policy Framework (2012).
5. The proposed development would materially affect highway safety in the following ways:-
 - a. Gateway Avenue is of insufficient width to allow vehicles to pass each other safely, including construction traffic associated with the development, and the development would cause increased danger to pedestrians arising from vehicles having to be parked on or driving on the footway.

Date 10 March 2014

A handwritten signature in black ink that reads 'Guy R. Benson'.

Head of Planning & Development
Planning & Development Service
Directorate of Regeneration & Development

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION



- b. The junction of Gateway Avenue with the A53 is incapable of safely accommodating the additional traffic generated by the development and the development would lead to an increase in queuing at that junction which would be likely to result in drivers making unsafe movements on the A53.
- c. Having regard to the speed of traffic on the A53, the proximity of various junctions, and the proximity to a bend, the construction access would result in unsafe movements of vehicles accessing and egressing via its junction with the A53. There is no reasonable prospect of the applicant being able to bring forward a construction access solution that would not be harmful to the interests of highway safety.

The development would therefore be contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 which requires development to be safe and accessible, and the aims and objectives of the National Planning Policy Framework (2012).

6. By virtue of the number of dwellings, the density of the proposed development would be unsympathetic to the character of the existing village. As such, the development would be contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the aims and objectives of the National Planning Policy Framework (2012) and to the provisions of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document.

7. The development would be likely to result in additional flood risk to the occupiers of existing nearby dwellings and to the occupiers of the new dwellings, by virtue of additional surface water runoff. As such, the development would be contrary to the aims and objectives of the National Planning Policy Framework (2012).

8. The development fails to provide 25% of the total number of proposed dwellings as affordable dwellings on site which is required to provide a balanced and well functioning housing market, as referred to in the Newcastle-under-Lyme Borough Council Affordable Housing Supplementary Planning Document (2009) and the Supplementary Planning Document on Developer Contributions (2007). The proposal would thus be contrary to Policies CSP6 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2012).

Date 10 March 2014

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Head of Planning & Development
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TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION



9. The proposed development would by virtue of its scale and its encroachment into the open countryside, have an adverse impact upon the character of the countryside, would fail to protect rural vistas, and would have an adverse impact upon the distinctive character and appearance of the landscape in this location. As such, the proposal would be contrary to Policies CSP1 and CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy N21 of the Newcastle-under-Lyme Local Plan 2011, the aims and objectives of the National Planning Policy Framework (2012), the provisions of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document and guidance within the Planning for Landscape Change, Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011.

10. The adverse impacts of the development significantly and demonstrably outweigh any benefits of the development. The proposal therefore represents an unsustainable development that is contrary to the guidance of the National Planning Policy Framework (2012).

Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application

Officers have had appropriate meetings/conversations with the applicant's representatives where necessary to progress the determination of the application, and the Council entered into a Planning Performance Agreement with respect to the application. Notwithstanding this however, it has not proved possible to overcome the fundamental concerns of the Council regarding the scheme given that for the above reasons, the proposal comprises unsustainable development contrary to the guidance of the National Planning Policy Framework (2012).

Informative

For the avoidance of any doubt the following plan, drawings and documents have been considered by the Planning Authority in reaching its decision:

- Site location plan - Nicol Thomas Drawing No. B5721 PL 002 Rev C received 23 January 2014
- Indicative Construction Access Proposal Plan - PTB Transport Planning Ltd Drawing No. Figure 2.2 received 28 January 2014

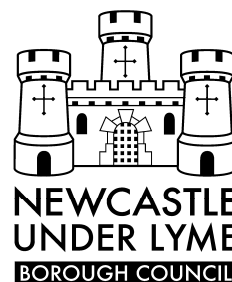
Date 10 March 2014

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TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION



- Proposed Puffin Crossing on A53 Indicative Layout - PTB Transport Planning Ltd Drawing No. Figure 6.1 Rev B received 13 December 2013
- Outline Drainage Plan - BWB Drawing No. BMW/2205/PL received 19 September 2013
- Design Constraints Plan - Nicol Thomas Drawing No. B5721 PL 004 Rev A received 27 September 2013
- Proposed Indicative Masterplan - Nicol Thomas Drawing No. B5721 (PL) 005 Rev A
- BWB Consultancy Flood Risk Assessment dated July 2013 received 27 August 2013
- Socio-Economic Impact of New Housing Development Report by Regeneris Consulting dated July 2013 received 27 August 2013
- Ecological Appraisal by Just Ecology Limited dated June 2013 received 27 August 2013
- Ecological Mitigation Strategy by Just Ecology Limited dated August 2013 received 27 August 2013
- Archaeological desk-based heritage assessment by Northamptonshire Archaeology dated June 2013 received 27 August 2013
- Agricultural Land Classification Report by Soil Environment Services Ltd dated May 2013 received 27 August 2013
- Affordable Housing Delivery Plan by Bridgehouse Property Consultants dated August 2013 received 27 August 2013
- PTB Transport Planning Ltd Travel Plan dated 20 August 2013 received 27 August 2013
- Midland Forestry Arboricultural Report dated 10 June 2013 received 27 August 2013
- ASL Desk Study Report dated May 2013 received 27 August 2013
- Landscape and Visual Impact Assessment by Pegasus Landscape Design dated 16 August 2013 received 27 August 2013
- Planning Statement dated 23 August 2013 received 27 August 2013
- ASL Preliminary Ground Investigation dated 23 August 2013 received 27 August 2013
- PTB Transport Planning Ltd Transport Assessment dated 20 August 2013 received 27 August 2013
- BWB Consultancy Foul Water & Utilities Statement dated 25 July 2013 received 27 August 2013
- REC LTD Noise and Vibration Impact Assessment dated 11 October 2013 received 14 October 2013
- Nicol Thomas Design and Access Statement dated August 2013 received 3 September 2013
- Statement of Community Involvement dated August 2013 received 3 September 2013
- Vista 3d Verified Visualisers dated August 2013 received 3 September 2013

Date 10 March 2014

Guy R. Benson

Head of Planning & Development
Planning & Development Service
Directorate of Regeneration & Development
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TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF PLANNING PERMISSION



- PTB Transport Planning Ltd Construction Access Plan dated 15 January 2013 received 17 January 2014
- PTB Transport Planning Ltd Parking Surveys and Site Access dated 16 January 2014 received 17 January 2014
- Just Ecology Ltd Hedgerow Assessment dated January 2014 received 21 January 2014

NOTES


Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at <http://www.planning-inspectorate.gov.uk/pins/forms/index.htm#planning>.
- The Secretary of State can allow a longer period giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town and Country Planning Act 1990.

Date 10 March 2014



Head of Planning & Development
Planning & Development Service
Directorate of Regeneration & Development

By virtue of paragraph(s) 1, 2, 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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