

Public Document Pack

Date Tuesday, 26th August, 2014
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Julia Cleary

Planning Committee Supplementary Agenda

PART 1- OPEN AGENDA

- 4 Application for Minor Development - LAND REAR OF 24 to 36 (Pages 3 - 6)
HEATHCOTE ROAD, MILES GREEN; MR KEV RYDER;
14/00533/FUL
- 5 Application for Other Development - GRASS VERGE (Pages 7 - 8)
ADJACENT TO THE SQUARE, PILKINGTON AVENUE;
VODAFONE LTD; 14/00566/TDET
- 8 Quarter 1 Report on Exercise of Authority to Extend Period of (Pages 9 - 10)
Time When Section 106 Obligations Can Be Entered Into

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th August 2014

Agenda item 4

Application ref 14/00533/FUL

Land rear of 24 to 36 Heathcote Road, Miles Green

Since the preparation of the report **four further objections** have been received.

In addition to referring to issues such as highway safety which have already been raised some 'new' issues are raised :-

- that private drains linking 24 to 36 with the public sewer cross the development site, are not indicated in the submission, would definitely be built over by one part of the development, and possibly at other points.
- that fencing proposed as part of the development may inhibit current hedge and fence maintenance.
- that the land has a history of running sand, is unstable and unsuitable for the proposed development, and that no risk assessment of the potential damage to adjacent properties that could be caused by construction activity has been provided and assessed

In addition questions are asked about whether the refuse and recyclable day of collection pick up point can be screened.

Your Officer's advice with respect to the above points is as follows.

Whilst the detailed alignment of existing private drainage across the site is not indicated in the submission it is likely that some parts of the proposed built development would be over such drainage. This is a matter which should be addressed at building regulations stage with either diversion of such drainage or a building over agreement being required. Essentially it is a private matter between the parties and not a material planning consideration of any bearing to the determination of the application.

Similarly issues of prevention of maintenance access by new fencing to existing hedging and fencing is as private civil matter for resolution between the parties.

With respect to the issue of ground stability, other than the assertion made by two third parties, no other evidence has been submitted to the LPA on this point. Whilst land stability can, as indicated in National Planning Practice Guidance (NPPG) be a material consideration in the consideration of planning applications, this is more where there is concern about land heave, slippage and slope stability. No obvious indications of any of these features have been noted on site (although that observation should be qualified by the fact that most of the site is covered with tall vegetation). The concern raised in the representation appears to be more about the potential impact of construction activity on adjacent properties. Where a property owner has such concerns it is normal practice for parties to agree between themselves to an independent before and after construction structural survey – an approach that is mutually beneficial. Essentially this is a private civil matter rather than one of public concern. It is not considered necessary or appropriate to require the submission to and approval by the Local Planning Authority of a special construction plan addressing this issue and accordingly an additional condition is not proposed.

With respect to the request that the bin collection point be screened (from view from side windows of No.34, this is not achievable given its position immediately adjacent to the proposed access to the houses, the low boundary wall of No.34, the drive of No.34 and the elevated position of No.34 itself. Bearing in mind that bins should only be in this location on

collection day, the absence of screening from No.34 is not grounds for refusal of the scheme. Such a point was expressly accepted by the Planning Authority in its decision on the previous application and with a reduced number of dwellings now proposed it would be impossible to justify a different decision now.

The **applicant** advises that he will be submitting as soon as he can a planning appeal with respect to the refusal of application 14/00247/FUL (the most recently considered scheme for 6 bungalows) , and furthermore that should the current application be approved that planning appeal would then be withdrawn.

Whilst members may wish to note this information your Officer would advise members to consider the application before them on its own merits. For members' information no decision on an application can or should be made subject to the prior withdrawal of an appeal against another decision. Applicants are anyway always entitled to make further applications, and to appeal against decisions of the Council, and were the Council to seek to prevent this and an appeal be eventually made, such an approach would be viewed by the Planning Inspectorate as unreasonable behaviour (and costs almost certainly awarded against the Council).

A consideration that was not expressly addressed in the agenda report is whether "best use" is being made of the site in a proposal for 4 dwellings (which is under the 5 dwelling threshold at which affordable housing is required in the Rural area). The Affordable housing SPD indicates that where schemes are submitted under the threshold account needs to be taken of whether best use is being made of the site and it is indicated that where land is used inefficiently to avoid having to provide affordable housing, this will lead to the refusal of planning permission. Insofar as the applicant themselves advanced proposals for 6 dwellings they clearly considered the site could accommodate this number. The proposals were refused by the Council but not on the grounds that the scheme was too dense – but initially on grounds relating to the design of the development, the affordable dwelling being visually distinguishable from the other development on the site and concerns about whether appropriate provision had been made for the storage and collection of waste and recyclable materials. The second decision was a refusal solely on the grounds that the affordable dwelling was visually distinguishable from the other development on the site.

At the time when the SPD was developed central government was pressing upon local planning authorities an agenda that gave great weight to the concept of making the most effective and efficient use of land. Since then national minimal density requirements have been deleted and the focus in guidance is more on whether the density proposed is appropriate for the location rather than slavish adherence to the concept of making 'best use'. Whilst the density achieved in a 6 house scheme here was acceptable to the Local Planning Authority it would be difficult to argue that the four house scheme would appear 'out of place' bearing in mind its backland location and indeed there is an argument that by its inclusion of an unusual four bed roomed bungalow it helps widen the range of new housing available (another objective of the NPPF). For the above reasons your officers have not pursued this line of argument.

Nothing in the additional material received since the report alters the view of your officer that planning permission can be granted subject to various conditions.

The recommendation accordingly remains unaltered from the agenda report – to approve the application subject to the attachment of the conditions indicated.

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th August 2014

Agenda item 5

Application ref: 14/00566/TDET

The Square, Pilkington Avenue, Westlands

Since the preparation of the agenda report the comments of the **Highways Authority** have been received raising no objections to the application.

The **Environmental Protection Division** note that a declaration of conformity to the 'ICNIRP' guidelines has been submitted and is acceptable.

No comments have been received from **Landscape Development Section** by the due date so it can now be assumed that they have no observations to make upon the application.

The recommendation therefore remains as set out in the agenda report.

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th August 2014

Agenda item 8

First Quarter 2014/15 Report on extensions to time periods within which obligations under Section 106 can be entered into

Since the agenda report was prepared on the 14th August there have been developments with respect to a number of the 11 cases referred to within the report. These developments are detailed below

With respect to case **(1) Application 13/00245/FUL – Old Springs Farm, Stoneyford (HLW Farms)** officers have again written to the agent pressing for a decision by their client, and indicating a fairly close deadline for a response.

With respect to case **(2) Application 13/00712/FUL – Blackfriars, Lower Street, Newcastle** your Officer has agreed to extend the period (within which the obligations must be entered into) to the 29th August, and the applicant has agreed at the same time to extend the statutory period (within which no appeal may be lodged) to the 5th September. The very latest indications are that the 29th August date is not likely to be achieved, in which case a modest extension will be agreed, as the wording of the document has been agreed by all 5 parties and it is solely a matter of its signing or execution by them – that is the site owners, the bank, the developer, the County Council and the Borough Council.

With respect to case **(3) Application 13/00625/OUT (Residential scheme) – Unit 7, Linley Trading Estate, Butt Lane** negotiations between the owners' solicitor and the Council's solicitor about the wording of the agreement have for the present been completed and the County Council's agreement to that document is now being sought, but has not yet been secured. Your Officer in the meantime has agreed to extend the period (within which the obligations must be entered into) to 5th September and the applicant has agreed at the same time to extend the statutory period to that same date.

With respect to case **(4) Application 14/00077/FUL – Maer Hall, Maer**, the applicant has now completed and returned the agreement, and as a result the planning permission should now be able to be issued "in time", following the applicant's agreement at the same time to extend the statutory period.

With respect to case **(5) Application 08/00795/EXTN2 – Former Holdcroft Garage, Knutton Lane, Wolstanton** information contained within the agenda report - that the applicant had shown no active interest in concluding this matter – has turned out not to be correct. A new period (within which the obligations must be entered into) ending on 18th September has been agreed by your Officer, and the applicant at the same time has agreed to extend the statutory period until the 22nd September.

With respect to case **(6) Application 14/00027/FUL Land adjacent to 31 Banbury Street** there has been further contact from the applicant and in this case your Officer has agreed to extend the period (within which the obligations must be entered into) until 8th October – so as to allow time for an independent viability assessment to be undertaken and for the matter potentially to come back to the Committee. At the same time the applicant has agreed to extend the statutory period until the 15th October.

With respect to case **(7) Application 13/00990/OUT Land Adjacent To Rowley House, Moss Lane, Madeley** your Officer having reviewed the current position has agreed to a further extension of the period (within which the obligations must be entered into) until 19th

September, provided the applicant agrees to extend the statutory period until that same date. A response to that request is awaited.

With respect to case **(8) Application 13/00525/OUT Land Between Apedale Road and Palatine Drive, Chesterton** your Officer having reviewed progress, and noting that the applicant has pursued the matter actively and positively since the Committee, has agreed to extend the period (within which the obligations must be entered into) to the 26th September, and the applicant has agreed to extend the statutory period to the 3rd October 2014.

With respect to case **(9) Application 14/00217/FUL Land At High Street/Marsh Avenue/Silverdale Road, High Street, Wolstanton** your Officer has agreed to extend the period (within which the obligations must be entered into) until 5th September – with the applicants actively pursuing completion of an agreement with the Council. At the same time they have agreed to extend the statutory period until 12th September.

With respect to case **(10) Application 14/00284/FUL Former Priory Day Centre, Lymewood Grove, Newcastle** your Officer agreed to extend the period (within which the obligations had to be entered into) until the 5th September, and the applicant at the same time agreed to extend the statutory period until the 12th. The agreement has subsequently been completed, and the decision notice of approval provided it is issued promptly should now be able to be issued “in time”.

With respect to case **(11) Application 14/00362/FUL (Section 73 application) Unit 7 Linley Road, Trading Estate, Butt Lane** progress has been made since 14th August by the Council’s solicitor in preparing a draft unilateral undertaking for consideration by the applicant. Your Officer has advised the applicant that the period (within which the obligation has to be entered into) is extended to the 15th September. The applicant has indicated their agreement to extend the statutory period until 5th September, being concerned that the Council should progress this matter.