

# Public Document Pack

**Date of meeting** Tuesday, 3rd March, 2015  
**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**

- |            |   |                        |
|------------|---|------------------------|
| <b>3</b>   | <b>Application for Major Development - Land adjacent to 31 Banbury Street, Talke; Browns (Shopfitting &amp; Construction) Ltd/Plant Design/GW; 14/00027/FUL</b> | <b>(Pages 3 - 6)</b>   |
| <b>4</b>   | <b>Application for Major Development - Land adjacent to Station Road, Silverdale; Reliant Building Ltd; 11/00284/FUL</b>  | <b>(Pages 7 - 8)</b>   |
| <b>7</b>   | <b>Application for Minor Development - Land South of Co-operative Lane, Halmer End; Mr and Mrs Eardley; 14/00929/OUT</b>  | <b>(Pages 9 - 10)</b>  |
| <b>8</b>   | <b>Application for Minor Development - Redgates, Haddon Lane, Chapel Chorlton; Mr Snaith; 15/00039/OUT</b>  | <b>(Pages 11 - 12)</b> |
| <b>9</b>   | <b>Application for Other Development - 10 Sidmouth Avenue; The Birches (Staffs) Ltd; 15/00047/COU</b>   | <b>(Pages 13 - 14)</b> |
| <b>11</b>  | <b>Quarterly Report on Action Taken where Enforcement Action has been Authorised</b>  | <b>(Pages 15 - 16)</b> |
| <b>14a</b> | <b>Confirmation of Variation of TPO62</b>   | <b>(Pages 17 - 18)</b> |

**Members:** Councillors Baker (Chair), Mrs Bates, Becket, Mrs Braithwaite, Cooper, Fear, Mrs Hambleton, Mrs Heesom, Northcott, Proctor (Vice-Chair), Miss Reddish, Mrs Simpson, Waring, Welsh and Williams

**PLEASE NOTE:** The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

**Members of the Council:** If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

**Meeting Quorums :-** 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**3<sup>rd</sup> March 2015**

**Agenda item 3**

**Application ref. 14/00027/FUL**

**Land adjacent to Banbury Street, Butt Lane**

As set out in the main agenda report, when Planning Committee resolved to grant planning permission for the proposed development, the erection of 13 dwellings, it was agreed that certain contributions would be required to make it acceptable. The financial contributions as follows:

- (i) A financial contribution of £38,259 for open space enhancements/improvements and maintenance
- (ii) A financial contribution of £8,000 towards the Newcastle (urban) Transport and Development Strategy (NTADS); and
- (iii) A financial contribution of £33,093 towards primary school provision.

It is acknowledged that in some circumstances an applicant may believe that what is being asked for by the Council will render a development unviable. The Developer Contributions SPD, adopted by the Borough Council in September 2007, has a section on the issue of "viability" and it starts with the point that any developer contributions required will need to comply with the tests set out in the then Circular on planning obligations, which include those of fairness and being reasonably related in scale and kind to the proposed development, and reasonable in all other respects. Although the Circular has since been superseded the principles continue to apply.

The Council's position is that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply.

The applicant in this case has submitted financial information to substantiate their claim that the Council's requirements as an LPA would render a policy compliant scheme unviable. The information submitted has been sent by your officers to the District Valuer (an independent third party who has the skills required to assess financial information in connection with development proposals) for further advice. There have been discussions between the District Valuer and the applicants' agents with a range of supporting material being provided. The Report of the District Valuer has now been received.

The conclusion of the District Valuer is that on the basis of the developer's appraisal and her own appraisal, it is not viable for the developer to provide any of the financial contributions that the Committee decision resolved should be secured.

As already indicated the contributions being sought are ones which make the development policy compliant and 'sustainable'. They are considered to meet the requirements of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

The NPPF states that pursuing sustainable development requires careful attention to viability and costs in both plan-making and decision-taking. In relation to viability the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable. It goes on to state that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, where appropriate, be sufficiently flexible to prevent planning development being stalled.

What is being sought here however is not a scaling back of contributions or the showing of flexibility in the normal sense (by say rephrasing of a contribution requirement) but rather it is an acceptance of a development with no financial contribution towards open space; NTADS or primary school provision.

On the positive side there is the undoubted contribution that the development would make to housing availability which is acknowledged to be in short supply. It is also noted that planning permission was granted in outline in 2008 and renewed in 2011 for this development at the same time as full planning permission was granted for a food retail store on part of the site fronting onto Cedar Avenue. Whilst the site was cleared and the store constructed some considerable time ago this site has remained undeveloped. Whilst the site could not be said to be harmful to the appearance of the area it does nothing to enhance the appearance of the area and its redevelopment will be beneficial to the area.

Every indication is that if the Council were to pursue the financial contributions, the development would simply not happen and accordingly no contribution would be received and much needed housing development would not take place. The LPA is being encouraged to boost the supply of housing and whilst the case for this particular development is not based upon the lack of a 5 year supply of deliverable housing sites (the principle being in accordance with policy in both the CSS and the NLP), encouraging this undeniably sustainable development (which could form part of that supply) is a proper material consideration. Your Officer's view is that given that the viability case is established with evidence verified by the District Valuer, there are sufficient circumstances here to justify accepting the development without these contributions.

That said, market conditions and thus viability, can change. On this basis it would be quite reasonable and necessary for the LPA to require the independent financial assessment of the scheme to be reviewed if the planning consent has not substantially commenced within one year of the assessment. This would need to be secured via a Section 106 agreement.

**The RECOMMENDATION is therefore that subject to the applicant entering into a Section 106 obligation by 14<sup>th</sup> April 2015 to require the review of the financial assessment of the scheme if there is no substantial commencement within a year of the grant of planning permission.**

**Permit subject to conditions relating to the following matters:-**

- **Standard time limit for commencement**
- **Approved plans.**
- **Prior approval of facing materials and implementation of approved details.**
- **Prior approval and implementation of approved ground levels and finished floor levels.**
- **Prior approval and implementation of a detailed Arboricultural site monitoring schedule, and appropriate Arboricultural works to the sycamore tree.**
- **Prior approval of plans detailing 6m radius kerbs; a pedestrian crossing point including tactile paving; visibility splays of 2.4m by 43m; and an access gradient not exceeding 1:10 for the first 5m rear of the highway boundary. The access shall be completed before occupation of plots 7 to 14 and thereafter the visibility splays kept free of obstruction.**
- **Prior approval and implementation of the widening of the footway to 2m on Banbury Street and the permanent closure of the existing site access and its reinstatement as footway.**
- **No occupation until the access road, parking and turning areas have been provided in accordance with the approved plans.**
- **Submission, approval and implementation of surfacing materials for the access road, parking and turning areas; surface water drainage for such areas; and delineation of parking bays.**
- **Prior to occupation of plot 1 the parking spaces 1 and 2 shall be completed.**

- Any gates to be a minimum of 5m from the site boundary and open away from the highway.
- Prior approval and implementation of a Construction Method Statement to include site compound; routing of construction vehicles; parking of vehicles; loading and unloading of plant and materials; storage of plant and materials; control of noise, vibration and dust; and wheel wash facilities.
- Provision of an access strip width of 6m, 3m either side of the centre line of the sewer crossing the site.
- The site to be drained on a separate system.
- Contaminated land conditions.

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**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**3<sup>rd</sup> March 2015**

**Agenda item 4**

**11/00284/FUL**

**Land adjacent Station Road, Silverdale**

As anticipated in the agenda report comments on the applicant's request and your Officer's recommendation have now been received from the **Highway Authority**, the **Education Authority** and the Landscape Development Section.

The **Highway Authority** have indicated that your Officer's recommendation would be acceptable to them. The **Education Authority** have indicated that whilst they would normally expect developers to provide the education contribution prior to the commencement of development, in this instance they would be content to agree to the variation to the existing agreement to allow the Education contribution to be paid half on commencement and half prior to the commencement of the 12<sup>th</sup> dwelling, as proposed by your officer.

The **Landscape Development Section** suggest that the split (insofar as the POS contribution is concerned) should be along the line of how the contribution is calculated, which in this case would be the capital element of £41,197 paid on commencement (thus enabling them to undertake improvements to meet demand) and the maintenance element of the payment (£26,496) to be paid at an agreed suitable point – such as on commencement of the 12<sup>th</sup> dwelling. They comment that the suggested 50:50 split would mean that they would not have all the capital element in place to enable the improvements to be undertaken until the second payment is received which would delay the improvements until after the demand had been created. They also point out that consideration would need to be given to any payback timeframes (should the money not be spent) as well, as the trigger should only be after all the funding has been received.

Your officer notes that the flexibility suggested by the Landscape Development Section should arguably apply to all POS contributions and is an acknowledgement that the maintenance element of a contribution should anyway only be payable once the improvement or provision associated with a 'capital' payment has been undertaken. Nevertheless the point is fairly made that the initial payment of £33,845 (half of the total POS contribution of £67,689) falls short of the capital element. Clearly if the Committee were to agree to the recommendation, there would be a direct impact, certainly upon timing of the associated POS provision or improvement. The other two parties have not identified such an impacts but in that that the County Council's agreement to this variation is required, and it is prepared to vary the agreement along the lines indicated (which "shares the pain" equally between the three contributions), your officer's view is that the recommendation that has been given in the agenda report is appropriate. There will need to be associated adjustment to the payback triggers in the agreement.

In the light of the responses received the recommendation is as follows

**That the developer be informed that the Council would be prepared to vary the agreement so that half of each contribution is paid prior to commencement with the outstanding sums being paid prior to commencement of the twelfth dwelling on the site, and any repayment triggers are appropriately adjusted to relate to the final payment of each contribution.**





**ADVANCE SUPPLEMENTARY REPORT**

**TO THE PLANNING COMMITTEE**

**3<sup>RD</sup> March 2015**

**Agenda item 7**

**Application ref. 14/00929/OUT**

**Land south of Co-operative Lane, Halmer End**

The comments of **Audley Rural Parish Council** have now been received. They do not support the application on the grounds of a narrow single lane access strip which would compete with other land users such as caravan storage. It was considered to be backland development, with no safe access and would potentially overlook neighbouring properties. The road is unmade and suffers from neglect with large potholes. It was felt that the coal mine detail was missing, as there is several in the nearby area.

The Parish Council noted and supported objections submitted to the Borough Council.

**The RECOMMENDATION remains as set out in the agenda report.**

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**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**3<sup>rd</sup> March 2015**

**Agenda item 8**

**Application ref. 15/00039/OUT**

**Redgates, Haddon Lane, Chapel Chorlton**

No further information has been received since the preparation of the main agenda report but it is necessary to correct an inaccuracy within the report regarding a petition referred to. This was submitted by the applicant.

The report indicates at a number of points that signatories to the petition are in support of the application. However, the petition was signed in 2007 prior to an application being submitted and so cannot be deemed to be supporting this application.

**The RECOMMENDATION remains as set out in the agenda report.**

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**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**3<sup>rd</sup> March 2015**

**Agenda item 9**

**Application ref. 15/00047/COU**

**10 Sidmouth Avenue, Newcastle under Lyme**

Since the preparation of the agenda report the **Highway Authority** have advised that they have no objections to the proposal subject to conditions relating to the provision of:-

1. access, parking and turning areas in accordance with the approved plans; and
2. weatherproof parking for a minimum of 12 cycles.

In addition a further 6 letters of representation have also been received raising the following concerns:-

- noise and anti-social behaviour problems will be experienced by residents living nearby as a result of students occupying the building.
- the increase in traffic arising from the proposal will exacerbate parking problems and will be hazardous to highway safety.
- the ambience of the conservation area will be eroded and will create a less attractive place to live.
- there is no identified need for student housing in the area.
- the proposal will operate as a house in multiple occupation (HMO) which will undermine the Council's aim of achieving an appropriate balance of housing provision mix in the locality.
- there are already too many HMO's in the locality which is beyond an acceptable level.

**Your officers views**

The site is in a very sustainable location close to the town centre where student housing can be supported in broad policy terms. There is no policy requirement for the applicant to demonstrate or justify that the particular provision of housing sought is needed.

With respect to highway safety matters the Highway Authority have no objections. This takes into account the likely amount of vehicle movements associated with the use proposed and car parking provision within Sidmouth Avenue. It is also the case that additional cycle parking can be secured.

The other matters raised by the representations made do not significantly weigh against the proposal for refusal of the application to be supported.

**The RECOMMENDATION remains as set out in the agenda report which is to PERMIT with the conditions set out in the report and with additional conditions added to secure:-**

- 1. Parking, access and turning areas**
- 2. 12 cycle parking spaces**

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**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**3<sup>rd</sup> March 2015**

**Agenda item 11**

**Quarterly Report on Action Taken where Enforcement Action has been Authorised -**

The part of the report regarding 14/00014/207C2 in respect of Tagedale Quarry contains an error as under the heading 'progress/action particularly that within last quarter' there is an incomplete sentence. The last sentence should read as follows:

"A site visit that was undertaken earlier this year has established that the building has been removed from the unauthorised location."

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## Confirmation of Variation of Tree Preservation Order TPO 62

### **Whitmore Heath**

#### **Tree Preservation Order No.162a (varied)**

Town & Country Planning Act 1990

Town & Country Planning (Tree Protection) (England) Regulations 2012

**The Order** protects a significant number of trees on Whitmore Heath and was varied to include the Oaks trees that lie within Areas 1 and 2, as shown on the plan that accompanies the order.

TPO 62 contains 5 Areas of tree cover that are on and around Whitmore Heath.

The original order was made on 05/09/1991 and was confirmed on 15/11/1991.

The effect of the variation order is that Oak trees that are positioned within Areas 1 and 2 are now afforded protected by the variation.

The Variation Order was made using delegated powers on the 24<sup>th</sup> October 2014.

The purpose of this report is to seek approval needed for this Variation Order to be made permanent.

**The 6 month period for this Order expires on 24<sup>th</sup> April 2014.**

### RECOMMENDATION

That Tree Preservation Order **TPO62a (varied)** is confirmed and that the owners of all of the properties that area affected are informed accordingly.

### Reasons for Recommendation

Oaks make up a considerable part of the composition areas identified as Area 1 and Area 2 today, they are an important visual characteristic of Whitmore Heath and this would have been the case when the order was made in 1991.

Oak trees within Areas 1 and 2 will continue to make a valuable contribution to Whitmore Heath and should be protected by the order.

The Variation Order will safeguard the longer term visual amenity that many Oak trees on Whitmore Heath provide.

### Representations

Following the TPO publicity process no representations were received.

### Issues

Date report prepared

12<sup>th</sup> February 2015

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