

# Public Document Pack

**Date of meeting** Tuesday, 29th March, 2016  
**Time** 7.00 pm  
**Venue** Council Chamber, Civic Offices, Merrial Street,  
Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact** Geoff Durham

## Planning Committee

### SECOND SUPPLEMENTARY AGENDA

#### PART 1 – OPEN AGENDA

4b Application for Major Development - Hamptons and Land (Pages 3 - 4)  
adjacent to Hamptons, off Keele Road, Thistleberry, Newcastle.  
Mr JN and NW Hampton. 15/01085/OUT

5b Application for Major Development - Land at end of Gateway (Pages 5 - 6)  
Avenue, Baldwins Gate. Kier Living Ltd. 15/01106/REM

**Members:** Councillors Braithwaite, Cooper, Fear, Hambleton, Heesom, Mancey,  
Northcott, Owen, Pickup, Reddish (Vice-Chair), Simpson, Snell (Chair),  
Welsh, Williams, Williams and Winfield

**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.

**FIELD\_TITLE**

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

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## Supplementary Information

The following information was reported to the Planning Committee at its meeting on 29<sup>th</sup> March 2016

### **Agenda Item 4**

### **Application No. 15/01085/OUT**

Further correspondence has been received from the **applicant** indicating that whilst their advisors on viability do not fully accept the views that have been put forward by the District Valuer (DV), however in order to co-operate with the Authority and ensure the delivery of the site they are willing to accept that the education and travel plan monitoring contributions are protected and provided and that 20% affordable housing provision is secured. This is, however, without prejudice to any future procedures that will be necessary should the current application be refused by the Planning Committee.

### Officers' Views

The applicant's statement confirms that they are in principle prepared to agree to planning obligations which provide the full education and travel plan monitoring contributions together with 20% affordable housing, at least in respect of the current application.

The applicants have not made the same commitment in respect of the outstanding appeal. As such they may challenge the DV's conclusions at the forthcoming appeal against refusal of the previous application. If the Inspector accepts the applicant's advisors' position on viability over that of the DV then this could potentially result in no contributions and no affordable housing being secured from the development if the appeal is allowed.

Notwithstanding this, it is the opinion of your Officer that no weight should be given to the argument that the offer is only 'on the table' in relation to the current application, and that the conclusion of the DV should be followed. If necessary, evidence will be presented to convince the Inspector of this at the appeal if it takes place.

The recommendation remains as indicated in the supplementary report published last Thursday.

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## Supplementary Information

The following information was reported to the Planning Committee at its meeting on 29<sup>th</sup> March 2016

### **Agenda Item 5      Application No. 15/01106/REM**

**Whitmore Parish Council (WPC)** have made further submissions, confirming their previously registered concerns and expressing concern with the consideration of their previously voiced safety concerns with respect to the swales. The depths of the attenuation basins, if achieved after heavy rainfall, are more than enough to raise the spectre of death by drowning should toddlers gain access to them. WPC are also disappointed that their request for a Liaison Committee be officially set up for the duration of the development's construction has not been expressly addressed.

With respect to the former issue, express guidance exists for the consideration of health and safety principles for SuDS features and this in turn is being incorporated into a revised SuDS Manual Guidance. This guidance seeks to put possible risks into an appropriate context, discuss the balance of risks against the important environmental and social benefits delivered by SuDS; and demonstrate how, with good design, the risks associated with SuDS should be extremely low. When dealing with the design of public amenity space, it is important to weigh up the risk of harm against the benefits of provision, i.e. with the objective of balancing positive attributes against the inevitable risk of injury which any public activity generates.

The swales referred to are temporary open water features which will only hold water in extreme (i.e. very unusual) conditions (the so called 1 in 100 year events). That is not to say that drowning cannot occur in normally dry area where they contain water temporarily during and after rainfall events. The sides of the swales would have a gradient of no steeper than 1:3 and the open and accessible location with the roads and the housing development would provide a high degree of natural surveillance of these features. There is scope, if the drainage authority so require, for further design features such as level platforms to be provided if necessary. The play area, more than 15 metres away from the nearest swale, would be surrounded by a fence. Any designer of SuDS has the responsibility to address health and safety under the Construction Design and Management Regulations and must be able to demonstrate that any risks have been identified, assessed and mitigated/ameliorated. The drainage approving body (in this case SCC as the Local Lead Flood Authority (LLFA)) is also expected to undertake a health and safety assessment. The LLFA were consulted on the planning application and they had no comments to make upon it.

With respect to the setting up of a Liaison Committee, it is probable that the developer will in any case wish to deal in a bespoke way with any issues that may arise that they consider will impact upon the existing community. However the suggestion (of the Parish Council) is that the Borough Council should expressly require such a Committee. It is the case that some very long term projects such as quarries and landfill sites can be subject to a requirement to set up a Liaison Committee (which is normally set out in a Section 106 agreement). Your Officer does not consider such an approach would be justified in the case of what is a relatively modest housing development, that should be completed within three or so years. Furthermore there would be a concern if an expectation was created that such a

Liaison Committee would be attended by Borough Council staff. A condition could be used to secure such an arrangement if the Committee still considered that appropriate.

A **further representation** has been received. The writer indicates that the Planning Inspectorate have confirmed to him that once the appeal decision was issued the Planning Authority had no further remit in the matter and that the Local Planning Authority has the responsibility for ensuring that any development is in accordance with the conditions set by the Inspector, and for considering any further planning application. The Planning Inspectorate have advised him that if he has concerns about the LPA's handling of a planning application then he may have the ability to (seek a judicial) review of its decision or he could escalate his concerns to the Local Government Ombudsman (once he has taken the matter through the Council's complaint system). The writer states that it is a matter of fact, not opinion, that the existing plans do not comply with the Inspector's conditions, and he trusts that Members are aware of their responsibilities, he submits that to approve the application in its present form will fail in such a duty, and indeed for the Council to fulfil its responsibilities and obligations in this matter, and will surely leave it open to potential legal action and the involvement of the Local Government Ombudsman.

The matters raised in this correspondence are addressed in the preamble to the Key Issues section of the Committee report. Your Officer remains of the view that the application is a valid one, and that it could not have been declared invalid by the Local Planning Authority as has been suggested by third parties. As to the substantive issues which the Local Planning Authority can consider in respect of such an application for approval of reserved matters, and which could potentially form the basis for its rejection, these are considered in detail in the Key Issues section of the main agenda report. As members will note the recommendation is one of approval - on the basis that the design and layout are considered acceptable and in accordance with both the NPPF and the Urban Design Guidance Supplementary Planning Document, there would be no material adverse impact on highway safety as consequence of internal layout, or material adverse impact to residential amenity.

For the avoidance of any doubt it is confirmed that, notwithstanding the reference in the 'reason for recommendation' section to further comments from the Landscape Development Section being awaited, by the time the main agenda report had finalised these had been received and they are referred to in the body of the report