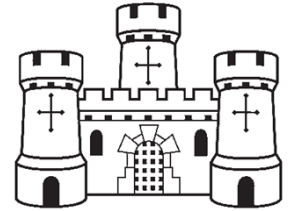


# Public Document Pack

**Date of meeting** Tuesday, 28th February, 2017  
**Time** 6.30 pm  
**Venue** Council Chamber, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact** Geoff Durham



**NEWCASTLE  
UNDER LYME**  
**BOROUGH COUNCIL**

Civic Offices  
Merrial Street  
Newcastle-under-Lyme  
Staffordshire  
ST5 2AG

## Planning Committee

### SECOND SUPPLEMENTARY AGENDA

#### PART 1 – OPEN AGENDA

- 4B Application for Major Development - The Homestead, Sandy Lane, Newcastle. The Wrekin Housing Trust. 16/00880/FUL (Pages 3 - 4)
- 9B Application for Minor Development - Land at Selbourne, Pinewood Road, Ashley. Mr P Marson. 16/01107/OUT (Pages 5 - 8)
- 11A Proposed Article 4 Direction for Stubbs Walk Conservation Area (Pages 9 - 10)
- 20a Application for Financial Assistance (Historic Buildings Grant) and All Saints Church, Madeley. 16/17003/HBG and 21a Station 21a House, Baldwins Gate. 16/17004/HBG (Pages 11 - 12)

#### **24 Urgent Business (Pages 13 - 16)**

**Members:** Councillors Burgess, Fear, S Hambleton (Vice-Chair), Heesom, Mancey, Northcott, Panter, Pickup, Proctor (Chair), Reddish, Simpson, Snell, Sweeney, Turner, G Williams and J 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.**

**FIELD\_TITLE**

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

**SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**28<sup>th</sup> February 2017**

Agenda item 4

Application ref. 16/00880/FUL

**The Homestead, May Place, May Bank, Newcastle under Lyme**

Since the preparation of the main agenda report and the first supplementary report, the agent has now withdrawn the terraced area balustrading from the planning application. As such the application now only includes the minor changes to the roof over the kitchen.

Their reasoning for the withdrawal of the terraced area balustrading from the application is to enable time to undertake further dialogue between the applicant's Acoustic Consultants and the Local Authorities Environmental Health Officers in order to address any outstanding concerns regarding noise levels on the terrace itself.

They propose to submit a new variation of condition 2 application (varying of the approved plans) once the outstanding matters are resolved.

As indicated within the main agenda report there are no planning objections to the kitchen roof alterations and as such, now that the balustrading has been withdrawn from the application, the planning application should be permitted.

As the balustrading that has been installed is unacceptable, it still remains necessary to reach a decision with regard to any enforcement action to secure the removal or replacement of the balustrading.

**The RECOMMENDATION is therefore amended as follows:**

**(1) PERMIT the application and vary condition 2, which lists the approved plans, to include the plan which includes the alterations to the design of the roof over the kitchen and subject to the imposition of all other conditions of 14/00476/FUL that remain relevant at this time.**

**(2) That members resolve that it is expedient to take enforcement action against the unauthorised balustrading, requiring that the metal railing balustrading be removed and replaced with glass balustrading as approved by the Local Planning Authority within 3 months from the date that the enforcement notice takes effect, for the following reasons:-**

- (a) it appears that the breach of planning control has taken place within the last four years;**
- (b) the retention of the metal railing balustrading does not provide sufficient noise mitigation for the terraced area from the traffic noise on Brampton Road/Sandy Lane and as such the development conflicts with the aims and objectives of the National Planning Policy Framework 2012, in particular the aim for the creation of healthy communities and the requirement to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;**
- (c) that planning permission should not be granted for the retention of the metal railing balustrading as planning conditions could not overcome the objections to the development;**

**(3) Should the metal railing balustrading not be removed and replaced with the permitted glass balustrading within 8 weeks of the decision on this application; or a further planning application for alternative balustrading, supported by a noise assessment that demonstrates appropriate noise levels, is not submitted within the same period and then subsequently approved, the Council's solicitor be authorised to issue the enforcement notice for the reasons as set out above and/or any other notices and to take and institute any proceedings on behalf of the Council and any and all action authorised by the Town and Country Planning Act 1990 to secure the removal of the metal railing balustrading.**

**SECOND SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**28<sup>th</sup> February 2017**

**Agenda item 9**

**Application ref. 16/01107/OUT**

**Land at Selbourne, Pinewood Road, Ashley**

Since the preparation of the main agenda report and the first supplementary report, one further letter of representation has been received raising the following objections:

- Reliance on private transport which is contrary to the principles of sustainability
- There are already a large number of plots in Loggerheads with planning permission that have not yet been built on
- Visual and landscape impact on the character of this sensitive setting

As referred to in the first supplementary report, **Loggerheads Parish Council** has sent a letter to all members of the Planning Committee. The following is a summary of the comments made within this correspondence:

- In the agenda report the Officer states that given the previous decisions of the Council on sites immediately adjacent to and opposite the current site, it is not considered that an objection could be sustained on the grounds that the site is in an unsustainable location. The Parish Council considers that just because 2 previous decisions have been taken to permit under delegated powers, it does not make it the right decision and would not stand up to legal challenge under planning law as a legitimate reason to permit yet another application in this clearly unsustainable location.
- Reference is made to other recent decisions that have been taken under delegated powers for applications on Pinewood Road which have been refused that are closer to Loggerheads than this site by a quarter of a mile. There is an obvious lack of consistency.
- There is an appeal decision for a dwelling in Ashley reported on the agenda. This is 0.5 miles from the Selbourne site but the Inspector's comments that led to his decision to dismiss the appeal apply equally to this site.
- Regarding the Tagedale Quarry Inquiry, the Borough Council's evidence focussed on the lack of facilities in Loggerheads and presented significant evidence to support the assertion that Loggerheads is not a sustainable location. Your Officer continues to state that this site is in a sustainable location, which is the opposite of what was argued by the Council's planning consultant regarding Tagedale Quarry.
- The other major part of the Borough Council's evidence at the Tagedale Inquiry was to counter the Appellant's assertion that the Borough Council's planning policies are out of date. In this report the planning Officer confirms that "this site is not within a village envelope and the proposed dwellings would not serve an identified local need and as such are not supported by policies of the Development Plan".
- Reference is made to the "Burntwood" playground but this is confusing as the play area is on Hugo Way. The distance from Pinewood Road to Hugo Way is too far, nearly a mile, to make it a reasonable proposition that children from houses at Selbourne could make use of a play area at Hugo Way.
- It is requested that Members give serious consideration to this total lack of consistency in decision making by the Planning Department. How can some applications be refused and others permitted on the same road? It is requested that this application is refused on the same grounds as the others that have been refused on Pinewood Road.

Your Officer's comments

The concerns expressed in the additional representation received and reported above are largely addressed within the report other than the reference to the number of unimplemented planning permissions within the area. Whilst this is the case it is not material to the determination of this planning application.

Your Officer's response to the matters raised by the Parish Council in their letter to Planning Committee members are set out below:

- Irrespective of whether previous decisions were made under delegated powers or by the Planning Committee, they are the decisions of the Council. Given that this Council concluded in relation to four sites adjacent to and opposite the current site, that this is a sustainable location, your Officer maintains the view that it would be unreasonable to conclude that the application site is in an unsustainable location.
- Regarding the other sites referred to by the Parish Council, your Officer has the following comments:
  - Bank Top, Pinewood Road (Ref. 15/00377/FUL) – this site is mid-way along Pinewood Road between its junction with Eccleshall Road to the south-west and its junction with Newcastle Road to the north-east. As a result, pedestrians would have to walk some distance along Pinewood Road, which has no pavements or lighting, to access bus stops or village facilities. The application site however is closer to Newcastle Road and there is a public footpath (Loggerheads 17) opposite the site which links Pinewood Road to Newcastle Road. The village facilities can be accessed on foot along Newcastle Road via the lit footpath alongside this route.
  - Meadowside, Pinewood Road (Ref. 16/00139/OUT & 16/00926/OUT) – this site is at the junction of Pinewood Road with Eccleshall Road and has been considered by Officers to be in a sustainable location. However, the site contains protected trees and the proposals involved the removal of some of those protected trees and put others at risk. In refusing those schemes it was concluded that whilst the site is in a sustainable location, the harm caused by impact on the trees and the loss of character significantly and demonstrably outweighed the benefits of the scheme. This contrasts with the current application proposal which would have no adverse impact on trees or landscape character.
  - Site 2, Pinewood Road (Ref. 16/01033/OUT) – Similar to Bank Top referred to above, access to the bus stops, shops and facilities of Loggerheads would require residents to walk a relatively significant distance along Pinewood Road which is a narrow rural lane with no lighting or pedestrian footway and is different to this application site for the reasons set out above.
  - Highdown, Eldertree Lane, Ashley (Ref. 16/00343/OUT) – This site is a considerable distance away from the shops and services of Loggerheads which contrasts from the current application site which is within walking distance of the village centre.
- Notwithstanding evidence given by the Council's witness at the Tadgedale Quarry appeal, your Officer's professional view remains that given the number of shops and services in the village and the choice of modes of transport available, Loggerheads is a sustainable location.
- Notwithstanding evidence given by the Council's witness at the Tadgedale Quarry appeal, your Officer's view remains that in the context of the Council's inability to robustly demonstrate a 5 year plus 20% supply of deliverable housing sites, policies relating to the supply of housing cannot be considered up-to-date. Therefore, it is not considered 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 playground at Hugo Way is the only playground in the area and it is the closest facility to the application site. Given this, if the occupiers of the new dwellings did wish to visit a playground they would have to travel to the Hugo Way site, thus putting additional pressure on those facilities. As such, it remains your Officer's view that the requested financial contribution would comply with Section 122 of the CIL Regulations.

**The RECOMMENDATION remains as per the main agenda report.**

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**SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**28<sup>th</sup> February 2017**

**Agenda Item 11**

**Proposed Article 4 Direction for Stubbs Walk Conservation Area**

The **Conservation Advisory Working Party** recommends to the Planning Committee that the Council make an Article 4 Direction for the Stubbs Walk Conservation Area as set out in the report.

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**SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**28<sup>th</sup> February 2017**

**Agenda item 20**

**Application 16/17003/HBG**

**All Saints' Church, Madeley**

The **Conservation Advisory Working Party** recommends that the Planning Committee approves a grant of £1,122, for works at the above property, subject to appropriate standard conditions.

**Agenda item 21**

**Application 16/17004/HBG**

**Station House, Baldwins Gate**

The **Conservation Advisory Working Party** recommends that the Planning Committee approves a grant of £1,924, for works at the above property, subject to appropriate standard conditions.

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**AUDLEY WORKINGMEN'S CLUB, NEW ROAD, BIGNALL END**  
**SANDYCROFT CONSTRUCTION LTD**

**16/01036/FUL**

On 28<sup>th</sup> May 2016 planning permission was granted for a residential development (reference 15/00692/FUL) on this site, following the completion of a legal agreement on the 27<sup>th</sup> May 2016. The Planning Committee at its meeting on the 2<sup>nd</sup> February 2017, in considering a revised scheme for this site (reference 16/01036/FUL), resolved that a new Section 106 would be required and that the Council's position as established in the original Section 106 agreement should be protected. The original agreement provided that in the event that substantial commencement of the development is not achieved by the 27<sup>th</sup> May 2017, and the development being proceeded with, there would have to be a financial reappraisal to establish whether the development could financially sustain policy compliant Section 106 requirements (towards the upgrading of public open space and the provision of education places).

Agents acting from the developer have very recently, and after the publication of the agenda for the Committee meeting on the 28<sup>th</sup> February, asked that this date be extended.

The resolution of the Planning Committee sets a date for completion of the agreement (of the 3<sup>rd</sup> March) failing which your Officer has the authority to refuse the application; unless he considers it appropriate to extend that date. Whilst that authority could be exercised, bring the matter back to the 28<sup>th</sup> March Committee for a decision on the applicants request, given the proximity to the 27<sup>th</sup> May date could make achievement of substantial completion by the 27<sup>th</sup> May even more challenging.

The matter is accordingly considered to fall within the definition of urgent business within the meaning of Section 100B(4) of the Local Government Act 1972

**RECOMMENDATION**

That the Committee agree that

- 1) the date by which substantial commencement must be achieved be the 27<sup>th</sup> July 2017, failing which a financial reappraisal will be required (should the development referred to in planning application 16/01036/FUL be proceeded with) in order to establish whether the development should make policy compliant contributions
- 2) the date by which the agreement must be completed (for planning permission to be granted) now be 3<sup>rd</sup> April 2017

**Reason for Recommendation**

It is considered appropriate to allow some limited additional time having regard to the circumstances of this case and the desirability of encouraging the delivery of housing

**KEY ISSUES**

On 28<sup>th</sup> May 2016 planning permission was granted for a residential development (reference 15/00692/FUL) on this site, following the completion of a legal agreement on the 27<sup>th</sup> May 2016. The Planning Committee at its meeting on the 2<sup>nd</sup> February 2017, in considering a revised scheme for this site (reference 16/01036/FUL), resolved that a new Section 106 would be required and that the Council's position as established in the original Section 106 agreement should be protected. The original agreement provided that in the event that substantial commencement of the development is not achieved by the 27<sup>th</sup> May 2017 and the development being proceeded with there would have to be a financial reappraisal to establish whether at that date the development could financially sustain policy compliant Section 106 requirements to education places and the improvement of public open space.

Agents acting from the developer have asked that this date be extended.

They have requested that the date by which, in the event of there not having been a substantial commencement, a reappraisal would be required, should be set so that it is 6 months following the approval of the last of the details that is required by conditions of the planning permission prior to the commencement of the development.

The purpose of setting a period of time after which a reappraisal is required – if a substantial commencement of the development is not made - is that financial circumstances can change significantly over time and account accordingly then needs to be taken of those changed circumstances.

The District Valuer recommended in March 2016 that the assessment should be renewed if the development had not been substantially commenced within 12 months of being granted, or if the development was to be constructed in phases. The development in question is a modest one of 12 houses.

The agent's proposal could never be an acceptable position for the Authority. By delaying the submission of such details or by submitting unacceptable details there could be a significant delay in the commencement of the development which then could be occurring in very different financial circumstances without any requirement for a reappraisal.

However consideration could be given to extending the 12 month period to say 14 months – i.e. to the 27<sup>th</sup> July 2017. As indicated the independent appraisal which provided the basis for the Committee's decision to allow the development to proceed without the making of policy compliant contributions was undertaken in March 2016. No reappraisal was undertaken when the more recent application was submitted – the difference between the original and the revised scheme being limited. The developer says that the delay in this case resulted in a change of ownership and reassessment of the details of the scheme (which then led to the submission of application 16/01036/FUL in December 2016).

In this case substantial commencement has been defined as the completion to damp proof course level at ground level of 6 of the 12 dwellings and the construction to base course level of only the access. That is considered to be an appropriate measure of a substantial commencement of this development.

Completion of the Section 106 by the 3<sup>rd</sup> March is now probably unachievable even if both sets of solicitors are immediately instructed, so it also makes sense to set a new end date, failing which your officer would have authority to refuse the application unless he considered it appropriate to extend the period – the 3<sup>rd</sup> April is considered appropriate, given the stage the legal documentation has currently reached.

## **APPENDIX**

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

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026 (adopted 2009)  
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011  
Policy IM1: Provision of Essential supporting Infrastructure

### **Other Material Considerations**

National Planning Policy

National Planning Policy Framework (2012)  
Planning Practice Guidance (March 2014)

Community Infrastructure Levy Regulations 2010, as amended

Supplementary Planning Guidance/Documents  
Developer Contributions Supplementary Planning Document (SPD) (September 2007)

RICS Guidance Note 'Financial Viability in Planning' 1<sup>st</sup> Edition

HCA Good Practice Note Investment and Planning Obligations – responding to the downturn

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/01036/FUL>

### Background Papers

Planning files referred to  
Planning Documents referred to

Date report prepared  
28<sup>th</sup> February 2017

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